

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

JARROD STRINGER, et al.,	*	
Plaintiffs,	*	
	*	
v.	*	No. SA-20-CV-46-OG
	*	
RUTH R. HUGHS, et al.,	*	
Defendants.	*	

VIDEOCONFERENCED DEPOSITION OF
THE CORPORATE REPRESENTATIVE OF
THE TEXAS DEMOCRATIC PARTY,

TOMMY GLEN MAXEY

Monday, April 27, 2020

VIDEOCONFERENCED DEPOSITION OF TOMMY GLEN
MAXEY, produced as a witness at the instance of the
Defendants, and duly sworn, was taken in the
above-styled and numbered cause on Monday, April 27,
2020, from 10:03 a.m. to 2:04 p.m., before Debbie D.
Cunningham, CSR, in and for the State of Texas, remotely
reported via Machine Shorthand, pursuant to the Federal
Rules of Civil Procedure.

--ooOoo--

APPEARANCES

FOR PLAINTIFFS:

TEXAS CIVIL RIGHTS PROJECT
1405 Montopolis Drive
Austin, Texas 78741
(T) 512.474.5073

By: Joaquin Gonzalez, Esq.
joaquin@texascivilrightsproject.org

FOR PLAINTIFF INTERVENOR:

PERKINS COIE
700 13th Street, NW, Suite 800
Washington, D.C. 20005-3960
(T) 202.654.6200

By: John Geise, Esq.
jgeise@perkinscoie.com
AND
Aria C. Branch, Esq.
abran@perkinscoie.com
AND
Emily Brailey, Esq.
ebrailey@perkinscoie.com

FOR DEFENDANTS:

OFFICE OF THE ATTORNEY GENERAL OF TEXAS
General Litigation Division
300 W. 15th Street
Austin, Texas 78701
(T) 512.463.2120

By: Anne Marie Mackin, Esq.
anna.mackin@oag.texas.gov
AND
Christopher D. Hilton, Esq.
christopher.hilton@oag.texas.gov

VIDEOGRAPHER: Brian Christopher

INDEX

APPEARANCES

2

EXAMINATION OF TOMMY GLEN MAXEY:

BY MS. MACKIN

6

BY MR. GEISE

112

BY MS. MACKIN

115

REPORTER'S CERTIFICATION

117

EXHIBIT INDEX

Exhibit Number	Description	Page
Exhibit 1	Defendants' Notice of Oral Deposition Pursuant to Federal Rule of Procedure 30	9
Exhibit 2	Plaintiffs' Production in Response to Subpoena	17

1 (Monday, April 27, 2020, 10:03 a.m.)

2 P R O C E E D I N G S

3 THE REPORTER: Today is April 27th, 2020.

4 This is the deposition of the Texas Democratic Party
5 Representative, Glen Maxey, in the matter of Jarrod
6 Stringer, et al. versus Ruth R. Hughes, et al. We are
7 remotely situated due to COVID-19 and are appearing via
8 Zoom conference. We are now on the record at
9 10:03 a.m., Central time.

10 My name is Debbie Cunningham; and my
11 business address is P.O. Box 245, Manchaca, Texas.

12 Would all persons present please
13 introduce themselves for the record?

14 MS. MACKIN: This is Anna Mackin with the
15 Texas Office of the Attorney General on behalf of the
16 Defendant.

17 MR. GEISE: This is John Geise from the
18 law firm of Perkins Coie, LLP, on behalf of Plaintiff
19 Intervenor Texas Democratic Party.

20 MS. BRANCH: This is Aria Branch from
21 Perkins Coie on behalf of the Plaintiff Intervenor,
22 Texas Democratic Party.

23 MS. BRAILEY: This is Emily Brailey also
24 from Perkins Coie on behalf of the Plaintiff Intervenor,
25 Texas Democratic Party.

1 THE WITNESS: I'm Glen Maxey from the
2 Texas Democratic Party.

3 MR. GONZALES: This is Joaquin Gonzales
4 on behalf of Plaintiffs, Jarrod Stringer, et al.

5 (Witness sworn by the reporter.)

6 MS. MACKIN: And I'd just like to note on
7 the record that the parties have stipulated that that
8 oath can be taken remotely.

9 GLEN MAXEY,
10 having taken an oath to tell the truth, the whole truth,
11 and nothing but the truth, was examined and testified as
12 follows:

13 EXAMINATION

14 BY MS. MACKIN:

15 Q. All right. Good morning, Mr. Maxey.

16 A. Good morning.

17 Q. Please speak and spell your name for the
18 record.

19 A. Tommy Glen Maxey, T-O-M-M-Y G-L-E-N M-A-X-E-Y.

20 Q. Thank you.

21 My name is Anna Mackin. I represent the
22 Defendants in this case, and I'm going to be asking you
23 some questions today. You have been deposed before; is
24 that right?

25 A. That's correct.

1 Q. Okay. So you're probably familiar with what
2 we're about to cover; but I want to briefly go over some
3 ground rules, which are especially important given that
4 we're remotely situated and using this videoconference
5 technology to take your deposition today.

6 Please try to give a verbal answer to my
7 questions. "Yes" or "no" works a lot better than
8 "uh-huh" or "huh-uh" because it makes sure that the
9 record is clear and Ms. Cunningham is writing down
10 everything that we say. Okay?

11 A. All right.

12 Q. Okay. And please try to let me finish a
13 question before you begin your answer. I will also
14 endeavor to allow you to finish your answer before I
15 ask my next question. This is, again, so that
16 Ms. Cunningham can get an accurate record of everything
17 that is said. Okay?

18 A. Okay.

19 Q. And if you don't understand one of my
20 questions today, will you please tell me so that I can
21 rephrase it?

22 A. Yes, ma'am.

23 Q. Thank you.

24 And if you do answer, I will assume that
25 you have understood the question. Is that fair?

1 A. That's fair.

2 Q. Okay. A reminder: You are under oath, sworn
3 to tell the truth as if testifying at a courthouse in
4 front of judge and a jury under penalty of perjury if
5 you do not tell the truth. Do you understand that?

6 A. I do.

7 Q. Okay. And this is not an endurance contest.
8 You are the talent here. So if you ever need a break,
9 need to stretch your legs, use the restroom, please just
10 let me know; and we'll take a break. I'll just ask that
11 you answer any question that is pending before we go on
12 break. Okay?

13 A. All right.

14 Q. All right. Is there any reason that you might
15 not be able to answer my questions honestly, completely,
16 and accurately today?

17 A. Nothing at all.

18 Q. Okay. So during today's deposition I'm going
19 to show you some documents by publishing them on the
20 screen. If you have trouble seeing a document, just let
21 me know. I can zoom in or out, scroll up or down
22 however you need me to. Just let me know that I need to
23 do that. Okay?

24 A. All right. Let me just say that I learned
25 last time that with my progressive glasses, sometimes

1 I'm going to have to move the screen to see. So I
2 might -- my picture might go out of the frame while I'm
3 tilting the computer.

4 Q. Okay. Understood. And we also have a way to
5 send around a little link. If it's not really working
6 for me to publish the document on the screen, I can
7 share a link in the chat box; and that will allow
8 everybody to download whatever document we're talking
9 about. So we can explore what we need to do to make
10 sure that you're seeing the documents clearly.

11 A. Thank you.

12 Q. Of course. So let's go ahead and practice
13 with what's going to be Exhibit 1 to this deposition.

14 MR. GEISE: Can we actually just send
15 around the chat links as a matter of course so that
16 counsel can download them as well?

17 MS. MACKIN: Sure, sure. That's fine.
18 Let me stop this share, and I will circulate...

19 MR. GEISE: Yeah, we've had these hiccups
20 before; and it just ended up being easier.

21 MS. MACKIN: Not a problem. We are all
22 learning on the job a little bit when it comes to these
23 depositions.

24 MR. GEISE: I was in a deposition where
25 Debbie got cut out because she -- her house got struck

1 by lightening, so that was a particular --

2 MS. MACKIN: Oh my gosh. Are you all
3 right?

4 THE REPORTER: Yes.

5 MR. GEISE: That was particularly
6 different.

7 MS. MACKIN: Yeah.

8 All right. So I've sent around the
9 document in the chat box.

10 MR. GEISE: Yeah, I got it. It worked
11 for me. Thank you. Appreciate it.

12 MS. MACKIN: Sure.

13 (Exhibit 1 marked.)

14 Q (BY MS. MACKIN) Mr. Maxey, are you able to
15 view that document?

16 A. Yes.

17 Q. Okay. And have you seen this document before?

18 A. Yes.

19 Q. What is it?

20 A. It's the Defendants' Notice of Oral Deposition
21 pursuant to Federal Rule of Civil Procedure 30, in
22 Jarrod Stringer versus Ruth Hughs.

23 Q. And do you understand that you are here today
24 giving this deposition pursuant to this Notice of
25 Deposition?

1 A. Yes.

2 Q. And that your testimony today is on behalf of
3 the Texas Democratic Party, and your answers will bind
4 the Texas Democratic Party?

5 A. That's correct.

6 Q. Okay. And throughout this conversation today
7 when I say "TDP," I'm going to be referring to the Texas
8 Democratic Party, just to be clear about that; and if
9 you say "TDP," I'll also understand you to be referring
10 to the Texas Democratic Party unless you tell me
11 otherwise. Okay?

12 A. All right.

13 Q. All right. So I'd like to -- before we jump
14 into the substance, I'd like to go over the seven topics
15 for this corporate representative deposition. So if I
16 could have you please scroll down to page 5 of this
17 notice.

18 A. All right.

19 Q. So Topic 1 is your mission, "your" meaning
20 that of TDP. Are you designated to testify on this
21 topic?

22 A. Yes.

23 Q. Okay. And Topic 2, "Your organization,
24 including your organizational structure, employees,
25 physical assets, parent and sibling entities, tax

1 status, and history; the services that you provide and
2 the activities that you perform." Are you designated to
3 testify on this topic?

4 A. Yes.

5 Q. And Topic 3, "Your funding sources, funding
6 amounts, operational expenses, operational budget, and
7 funding activities between January 1st, 2014 and the
8 present." Are you designated to testify on this topic?

9 A. Yes.

10 Q. Topic 4, "All activities on which you have
11 spent funds or to which you have dedicated resources in
12 Texas between January 1st, 2014 and the present." And
13 then it lists, "including," several subtopics. Are you
14 designated to testify on Topic 4?

15 A. To the level that they are not protected under
16 our organizational First Amendment rights.

17 Q. And what do you mean by that?

18 A. Well, it's my understanding that, as an
19 entity, that we have the ability to not disclose our
20 day-to-day operational things; but I can, to the level
21 my attorney tells me, answer this question -- these
22 questions in Number 4.

23 Q. And there isn't another person who would be
24 designated to testify on Topic Number 4, is there?

25 A. No. I am it.

1 Q. You are it. All right.

2 Topic 5, "All activities on which you
3 plan to spend funds or to which you plan to dedicate
4 resources in Texas between the present and January 1st,"
5 2014 [sic.] Mr. Maxey, are you designated to testify on
6 this topic?

7 A. Well, it's 2024, not 2014, but --

8 Q. Correct. Apologies.

9 A. Yes, I am.

10 Q. Thank you for keeping me honest. I appreciate
11 it.

12 Topic 6, "The allegations in your
13 Complaint and the factual bases therefor." Are you
14 designated to testify on this topic?

15 A. I am.

16 Q. And the word "Complaint" as used in Topic 6,
17 do you understand that to mean the Complaint that your
18 attorneys filed on behalf of the Texas Democratic Party,
19 the DSCC and the DCCC in this lawsuit?

20 A. Yes.

21 Q. Okay. Thank you.

22 And then Topic 7, "Your members who are
23 eligible to use the DPS website for a driver license
24 renewal or change-of-address transaction and intend to
25 do so." Are you designated to testify on this topic?

1 A. Yes.

2 Q. All right. And, finally, Number 8, "The
3 documents produced in response to the subpoena duces
4 tecum," described and attached to the Deposition Notice.
5 Are you designated to testify on this topic?

6 A. I have no idea what those words mean, but I
7 suppose I am.

8 Q. Okay. Is it your understanding that some
9 documents have been produced to the Defendants by your
10 attorneys --

11 A. Yes.

12 Q. -- and that we can talk about them today?

13 A. Absolutely.

14 Q. All right. Sounds good.

15 All right. So how did you prepare for
16 today's deposition, Mr. Maxey?

17 A. I reviewed all of the documents that were
18 shared to me by my attorney. I had conversations with
19 my attorney about the general scope of what we would
20 discuss today.

21 Q. And which documents did you review?

22 MR. GEISE: Objection, attorney-client
23 privilege. I think he said he reviewed documents
24 provided to him by counsel. So I would instruct the
25 witness only to answer any documents that were not

1 provided by counsel.

2 MS. MACKIN: Is it your position that
3 we're going --

4 (Simultaneous speakers.)

5 MS. MACKIN: -- document is that that's
6 privileged because I'm not asking him about advice of
7 counsel. I'm simply asking which documents he relied
8 upon to prepare to testify on the topics.

9 MR. GEISE: I think that if he was
10 provided documents by counsel, then which documents he
11 was provided to review in preparation for the deposition
12 is attorney work product and goes to the mental
13 impressions of counsel.

14 So if you reviewed any documents outside
15 of those provided by counsel, I would -- you can answer
16 that. If the only documents you reviewed were documents
17 which counsel provided you to review, I would instruct
18 you not to answer.

19 I think he's allowed to answer how many
20 documents he reviewed, but -- or the general topics of
21 documents he reviewed.

22 But I think that specific documents you
23 reviewed, I would instruct you not to answer. So with
24 that instruction, you can answer the number of documents
25 you reviewed and the general scope of the documents you

1 reviewed.

2 MS. MACKIN: I'd just like to note on the
3 record that I don't think that's correct. Of course,
4 the witness is able to answer to the extent that he
5 feels is appropriate; but the mere fact of reviewing a
6 document and the nature of what the document is is not
7 protected.

8 MR. GEISE: And, again, I would instruct
9 the witness that I believe that reviewing specific
10 documents selected by counsel goes to the mental
11 impressions and work product of counsel. And I would
12 instruct the witness to answer a summary, a general
13 summary of the documents -- well, a general summary of
14 the documents you reviewed at a high level and the
15 number. And that's what I would instruct the witness to
16 answer.

17 A. So I reviewed approximately, I would say,
18 maybe about 50 documents that were sent to me by counsel
19 that all appeared to be the filings in this case alone.
20 I have not looked at any document, done any research
21 outside of my general knowledge about the Texas
22 Democratic Party in response to doing this deposition.
23 I have not looked at anything outside of what came that
24 appeared all to be things that have already been
25 produced into the record or will be produced into the

1 record in this lawsuit.

2 Q. So you did not search any files for documents
3 in preparation for today's deposition?

4 A. No. My brain is it.

5 Q. Did you bring any documents with you today?

6 A. Nope.

7 Q. Your attorneys have produced 55 PDF files to
8 us as a response to the subpoena attached to this
9 Notice. I'm going to make all of those files Exhibit 2
10 to this deposition.

11 (Exhibit 2 marked.)

12 Q. (BY MS. MACKIN) We will pull up a few of them
13 later on to look at them, but the documents that were
14 produced to us all appear to be e-mails sent by the
15 Texas Democratic Party to, be it -- well, it was not
16 clear who they were sent to; but they appeared to be
17 externally- sent e-mails, not within the Party, but sent
18 outside of TDP. Did you review any of those documents
19 in preparation for your deposition?

20 A. I did. I went through each one of them
21 opened. There were some of them that were garbled that
22 I couldn't read, but they seemed to be in the same vein
23 as the previous ones; and historically every one of
24 those e-mails I also received in my inbox when they were
25 originally sent.

1 MS. MACKIN: Okay. And I'm just going to
2 memorialize, again, on the record our objection to
3 withholding documents that the witness reviewed in
4 preparation for today's deposition, and we do request a
5 supplementation of that production to ensure --

6 THE WITNESS: I --

7 (Simultaneous speakers.)

8 MR. GEISE: Well, Glen, you don't --
9 Glen, you don't have to answer.

10 We can discuss that after the deposition
11 or off the record of the deposition. We are happy to
12 discuss our -- we maintain that the Texas Democratic
13 Party has publicly available financial records and that
14 anything that is an internal Party document is subject
15 to the First Amendment privilege, is not critical to the
16 needs of this case or critical to establishing the Texas
17 Democratic Party's standing and that --

18 MS. MACKIN: I think, Counsel, we can
19 discuss --

20 MR. GEISE: We can discuss that off the
21 record. We don't need to have that discussion now.

22 MS. MACKIN: I'm just preserving our
23 objection on the record.

24 MR. GEISE: Yes, understood. And I'm
25 preserving our response; but, yes, we can talk after.

1 Q (BY MS. MACKIN) All right. Mr. Maxey, did
2 you meet with anyone at TDP to prepare for today's
3 deposition?

4 A. No, ma'am.

5 Q. And how many times did you meet with counsel
6 to prepare for today's deposition?

7 A. Once.

8 Q. And how long did you meet with counsel?

9 A. I think approximately an hour.

10 Q. Okay. And are you adequately familiarized
11 with the facts to testify as TDP's representative today?

12 A. I believe so.

13 Q. Okay. Just a brief discussion of your
14 background, Mr. Maxey. You are currently employed by
15 TDP; is that correct?

16 A. That's correct.

17 Q. What is your job title?

18 A. Currently my job title is Primary Director.

19 Q. How long have you held that position?

20 A. Well, I work for the Texas Democratic Party
21 year round; and I use different titles depending on the
22 time of the election cycle. For instance, during the
23 legislative session, I am the Legislative Director. I
24 lobby for the Party and election issues before the Texas
25 Legislature. So during the primary season, which begins

1 approximately September 1st of the odd year, through the
2 month after the runoff election, which is now going to
3 be August, I have the title of Primary Director because
4 we're in the period of having our Democratic primary and
5 primary runoff.

6 Q. Do you report to anyone in your role with the
7 Texas Democratic Party?

8 A. I report to the chairman of the Party,
9 Gilberto Hinjosa and Manny Garcia.

10 Q. And does anyone report to you?

11 A. I'm -- I do not have general employees
12 reporting to me. I am a senior advisor. So many of the
13 employees come to me for advice about election law, job
14 descriptions, things that I am knowledgeable of, since
15 I've been doing this over 50 years and most of them are,
16 you know, in their twenties. And Luke Warford, who is
17 the Director of Voter Registration -- or Voter
18 Expansion, which is voter registration and vote by mail
19 and those kind of programs, reports directly to me.

20 Q. Okay. So Luke Warford is your direct report;
21 and then for others, you are a wealth of institutional
22 knowledge, so to speak?

23 A. Yes.

24 Q. Okay. Who made the decision that the Texas
25 Democratic Party would join this lawsuit?

1 MR. GEISE: Objection. I think that that
2 goes to attorney-client privilege as well as the First
3 Amendment privilege. I would instruct the witness not
4 to answer.

5 MS. MACKIN: To be clear, I'm not asking
6 why the Texas Democratic Party decided to join this
7 lawsuit. I'm simply, under the topic of the
8 organizational structure, seeking to understand those
9 lines of authority.

10 MR. GEISE: I don't think that how the
11 Texas Democratic Party makes strategic litigation
12 decisions -- I think that's First Amendment privileged
13 and not relevant to this lawsuit. I would instruct the
14 witness not to answer.

15 MS. MACKIN: And I'll note again I didn't
16 ask how that decision was made. I asked for the
17 identity of the individual with the decision rights to
18 make it.

19 MR. GEISE: Understood. I would still
20 instruct the witness not to answer.

21 A. Therefore, I will not answer under the advice
22 of counsel.

23 Q. (BY MS. MACKIN) You're following the advice
24 of your counsel. Okay.

25 All right. I want to jump into Topic 1.

1 What is the mission of the Texas Democratic Party?

2 A. The mission of the Texas Democratic Party is
3 to elect people who call themselves Democrats to public
4 office at all levels, from president to public offices,
5 such as city councils and school boards, that are
6 non-partisan. But anybody who believes in the
7 Democratic philosophy, agrees with our platform. We
8 educate voters. We register voters so that they are
9 capable of casting a ballot. We inform voters about
10 issues and candidates. We run coordinated campaigns to
11 elect those Democrats. There are literally thousands of
12 different pieces of all of that, but generically it's
13 electing Democrats to public office.

14 Q. Okay. Has the mission of the Texas Democratic
15 Party changed over time?

16 A. No. I mean, the fundamental mission, you
17 know, began when the Party was formed in the early 1800s
18 to be the mission of electing people of our Party, with
19 our general philosophy and support our platform, to
20 public office. That's always been our mission. I don't
21 think we've deviated very far with that. How we do
22 that, methodologies, have changed radically over time;
23 and certainly radically just in the last decade,
24 radically in the last months because of the pandemic.
25 So methodologies have changed, but mission has not.

1 Q. And when you say methodologies have changed,
2 how have those methodologies changed?

3 A. Well, there was not a -- when I started in
4 this business doing Democratic Party work, there were
5 no computers. I started out on a manual typewriter
6 without -- not even with white-out or a corrective
7 ribbon. So the access to cellphones versus land lines
8 versus party lines over the 50 years I've been doing
9 this, access to whether you could do -- you know, I have
10 been from hand address the envelope, to stick on the
11 adhesive label, to laser printing at a mail shop over
12 the 50 years that I've been doing this.

13 So, I mean, all kinds of technology, all
14 kinds of communications, the fact that you can now talk
15 to tens of thousands of people simultaneously through
16 an e-mail is radically different than when we had to
17 phone each individual voter one by one when I started a
18 mere -- in the 1980s, you know. So the methodologies of
19 communicating and the fact that we have a voter
20 registration system where a person has to fill out the
21 paper form and put a wet signature on it that has
22 changed over the years to the ability of people who can
23 be registered to vote when they get their driver's
24 license renewed or registered or get a driver's license
25 for the first time, which brings us all the way to this

1 lawsuit. The State of Texas is refusing to follow
2 federal law in registering a person to vote when they
3 change their driver's license address.

4 MS. MACKIN: I'm going to object to the
5 last sentence as nonresponsive to the question.

6 Q. (BY MS. MACKIN) I would like to ask you,
7 Mr. Maxey, you mentioned that in the past few months,
8 even, methodologies have changed in light of the
9 pandemic. Can you tell me a little bit about how that
10 has changed?

11 A. Well, I would have had right now literally
12 dozens upon dozens of TDP employees knocking on doors
13 and being in the living rooms of voters or on their
14 porch having conversations about registering to vote.
15 Because of the COVID-19 those person-to-person
16 interactions are not happening. So now we're having to
17 do things in a different way of e-mail and phone calling
18 and other kinds of things, sort of a throwback to what
19 we did 50 years ago. So person-to-person communications
20 are not possible in social-distancing situations or at
21 least not advisable. We're not putting people at risk
22 to even put people in the situation that they have to be
23 6 foot apart. We don't want anybody to -- until the
24 governor and the president say it's all clear, we won't
25 be doing that kind of door-to-door campaigning.

1 Q. Okay. I want to talk about TDP's
2 organizational structure. Can you explain to me how TDP
3 is structured?

4 A. How it's structured governance-wise?

5 Q. Yes, sir.

6 A. The Texas Democratic Party has an Executive
7 Committee that's elected at our quadrennial state
8 conventions by delegates that are elected that consist
9 of a chairman and a vice chair and then 62 people, 31 --
10 two from each of the 31 state Senate districts, a man
11 and a woman. So it's a 64-member Executive Committee
12 that's outlined in the Texas Election Code statutorily,
13 membership of that committee. They make the policy.
14 The Executive Director hires -- I mean, the State Chair
15 hires an Executive Director. The Executive Director
16 hires a staff. The staff reports to the Executive
17 Director. The Executive Director reports to the State
18 Chair.

19 Q. And within that structure, would you fall
20 under the staff category?

21 A. Yes.

22 Q. Okay. And how many other staff members does
23 TDP have right now?

24 A. As reported in our staff meeting last week, we
25 had 61 staffers.

1 Q. And how are TDP staff members paid? I'm not
2 asking how much, just where the funds come from.

3 A. They come from donations that are made legally
4 and through federal and state law from donors,
5 individuals, organizations, political action committees.

6 Q. Okay. I'm going to jump ahead to Topic 4.
7 And as you were alluding to earlier, Mr. Maxey, I
8 understand that there are various permutations of how
9 TDP furthers its mission and sort of engages in its
10 activities; but I would like to understand kind of the
11 main buckets of activity, the main categories of
12 activity, that TDP is engaged in.

13 From what you said earlier, I wrote down:
14 Elect Democrats, educate voters, and register voters.
15 But I don't want to sort of pin you to that if there's
16 kind of a better way to describe the main categories of
17 activity that TDP engages in.

18 A. Sure. Let me just run down sort of job titles
19 of the 61 people, and that will give you an idea.

20 Q. Cool. Perfect.

21 A. We have a comptroller who receives and expends
22 the funds, who makes all the reports to the Federal
23 Election Committee and Texas Election Committee. She
24 has two assistants that also deal with HR and hiring and
25 doing Human Relations kind of hiring and removing

1 employees.

2 We have a data team that works on the
3 voter files, targeting, preparing lists for phone
4 banking, voter contact all through technology systems.
5 It's basically data work.

6 We have a fundraising team that consists
7 of four people that raise money from individual donors
8 and major donors and organizations.

9 As I said, we have an Executive Director.
10 We have an Assistant Executive Director who also does
11 sort of the political work of the organization.

12 We have a political team that has two
13 people that work directly with candidate services, two
14 people who work directly with volunteers for the
15 candidates, two people who work directly with the county
16 parties, with their plans, funding plans, coordinated
17 plans, training county chairs and county executive
18 committees and volunteers at the county level.

19 I'm sort of going around my office.

20 We have a five-member voter protection
21 team that deal with voter laws and educating people to
22 comply with all election laws and assist where we find
23 voters who have had problems casting their ballot or
24 getting registered, to make sure that everybody is
25 legally able to participate.

1 There's the voter expansion team, Luke
2 Warford, who does voter registration, vote by mail. I
3 work a lot in that program.

4 We have a communications staff, typical
5 communication directors, research director, digital
6 team, people who do all of our online, whether it's
7 e-mails, Instagram, Facebook, Twitter, all of those kind
8 of programatic things.

9 And we have an organizing team that works
10 in the field. We have constituency organizers for
11 allied groups within the Party, African-Americans,
12 Hispanic, disability community, LGBT community, the
13 women's community, Asian Pacific Islanders community. I
14 might be missing one of those groups, but there's a
15 staffer there.

16 And then there are literally -- there
17 will be by November approximately a thousand people in
18 the field talking to voters all over the state of Texas.

19 And that's how we do it.

20 Q. That's how the sausage is made.

21 Okay. So I appreciate that rundown. And
22 it sounds, from what you've said, like some of those
23 apparatuses are necessary to engage in a variety of
24 activities, like, it's not like you just have a -- like,
25 for example, your comptroller, that's sort of

1 infrastructure that's, like, necessary for the whole
2 organization to run, right?

3 A. Well --

4 MR. GEISE: I'm just going -- I think
5 it's -- I'm just going to object to preserve the First
6 Amendment objection and just instruct the witness. I
7 think this is all fine. You can continue to answer at a
8 high level. I just -- you know, if we start getting
9 into more and more detail, I just wanted to preserve
10 that objection for the record.

11 THE WITNESS: I understand.

12 A. So let me just say that nothing's siloed.
13 Everybody on our staff is trained to register a voter.
14 Everybody on our staff is trained to answer a voter's
15 questions so that no matter where -- what department
16 you're in, we're all supportive; and we're cross-
17 trained. Nothing is -- I mean, there are some people
18 who do just the same thing every day; but I work in
19 pretty much all of those areas.

20 I'm the author of many of the
21 communication e-mails we send out, perhaps, on voter
22 registration. And I think that's the whole nut of where
23 we're going with this is that we are having to move
24 money from all of those departments to deal with voter
25 registration because the State, in this case, is not

1 doing its work in registering people appropriately.

2 Q. (BY MS. MACKIN) Okay. And so I'm trying to
3 get a list of the main activities of the Texas
4 Democratic Party. And so based on what you've said, it
5 sounds like there is fundraising. There is candidate
6 services. There is county services, voter protection,
7 voter expansion, and maybe organizing. I mean, if you
8 had to break it down into categories of activity, how
9 would you do that, because I appreciate the explanation
10 of kind of the departments and the structure?

11 A. Every day we communicate with voters. We
12 educate voters. We help Texans who are not registered
13 get them registered in myriads of ways to make sure that
14 we expand the voting pool. We educate them how to cast
15 a vote, when to cast a vote, where to cast a vote, and
16 who to cast a vote for, pure and simple.

17 Our main goal right now is to register
18 approximately 2.6 million people to vote, which we're
19 spending lots of money on doing because the State of
20 Texas is not following the federal law in registering
21 people when they change their driver's license.

22 Q. And just to be clear on the record, Mr. Maxey,
23 are you an attorney?

24 A. No, and I never claimed to be one.

25 Q. Okay. And --

1 A. But let me just say this, though: I'm not an
2 attorney, but I was a legislator for 12 years. I have
3 drafted in the last four election cycles more than 150
4 pieces of election law. I have gotten legislators to
5 file them. I have testified on behalf of those bills,
6 and I have rewritten major sections of the Election Code
7 through things that I have drafted. So I am not an
8 attorney, but I understand the law.

9 Q. Okay. And I appreciate that.

10 I want to come back to what I'm trying
11 to understand with this question about TDP's activities.
12 So TDP engages in communications, right? You
13 mentioned -- when I just tried to get a list the last
14 time, you said communication, education, and voter
15 registration; but that doesn't seem to capture
16 everything that you talked about.

17 A. Please ask something specifically about what
18 you want to know, and I'll answer it.

19 Q. Sure. So what are the main categories of
20 activities that TDP is engaged in? And I think I did
21 ask that already, but I'll ask it again.

22 MR. GEISE: Objection to the form.

23 You can answer.

24 A. I'll answer it yet again. Our mission is to
25 educate voters to vote for Democratic candidates. In

1 order to do that, we must register them to vote. We
2 must educate them when, where, and how to vote. That's,
3 pure and simple, everything that we do. Candidates,
4 training, it's all about getting them elected. We train
5 them how to campaign, but our overarching goal is to
6 have more votes for Democrats than for Republicans,
7 Green Parties or Libertarian candidates or Write-in
8 candidates. That's our goal, pure and simple: Elect
9 Democrats. Number 1 on that is to have more Democrats
10 registered to vote, and that's the problem we're having
11 here is that we have impediments to doing that. We're
12 having to move funds into --

13 Q. (BY MS. MACKIN) Okay. But I'm not hearing an
14 answer to my question.

15 A. Sorry. Don't interrupt me. You told me I
16 could answer a question before you would interrupt.

17 So our goal is to register voters to
18 vote, and there is an impediment by the State of Texas
19 not registering voters when they update their driver's
20 license.

21 MS. MACKIN: Okay. Objection,
22 nonresponsive.

23 Q (BY MS. MACKIN) Mr. Maxey, what are the main
24 categories of activities that TDP is engaged in?

25 MR. GEISE: Objection, asked and

1 answered.

2 MS. MACKIN: I didn't hear an answer to
3 my question.

4 A. The main activities are voter registration,
5 voter education, candidate recruitment, candidate
6 education, and telling people when, where, and how to
7 cast a ballot. That's it in a nutshell. Whether we
8 raise money, whether we do data work, whether we do
9 communication, it's all about registering people to
10 vote, getting them to go vote for Democratic candidates.
11 Answered.

12 Q. (BY MS. MACKIN) And so is there a difference
13 between -- I just want to make sure I have the list
14 correct. I have as the main activities: Communication,
15 voter education, voter registration, candidate
16 recruitment, and candidate education. Do I have that
17 right?

18 A. Well, I don't know if it's limited to that.
19 I've been talking for 15 minutes here about the mission
20 of the Party and what we do and named every staffer with
21 a job description title. I think any logic is that all
22 of those things go back to having an educated electorate
23 of Democrats who know when an election is, where to go
24 vote, how to cast a ballot, how to do it legally, how to
25 do it, whether in person or by mail. All of that stuff

1 is our mission to get to the goal of electing Democrats
2 to office, pure and simple.

3 Please be specific because I've answered
4 that five times now.

5 Q. The thing that I'm struggling with, though --

6 A. You want me to give you a tick-tock of hours
7 from 8:00 to 5:00 every day of what I do? Is that what
8 you --

9 Q. No, sir.

10 A. Okay. Then think of a question other than the
11 one you've asked five times now, that I've answered.

12 Q. But respectfully, sir, it's a fair question;
13 and I'm just trying to make sure that I have the answer
14 clear because I'm a little bit confused by the way that
15 it's being answered.

16 So the list I have of the main activities
17 that TDP is engaged in, the list that I have of the main
18 activities -- I understand your mission is to elect
19 Democratic candidates, pure and simple. I've heard
20 that. I appreciate that. In terms of the specific
21 activities in which TDP is engaged, the main
22 activities -- I'm not asking for each granular thing;
23 but if you kind of divide it up, the work that TDP does,
24 I have five categories based on what you've said. And I
25 want to make sure that I understand that right and that

1 I have everything down as a list. So the list that I
2 have --

3 A. (Inaudible.)

4 Q. Go ahead.

5 A. I'm not -- you've not asked a question. Ask a
6 question.

7 Q. Okay. You started speaking, so I wanted to
8 give you an opportunity to do so.

9 The list that I have for the main
10 activities that TDP is engaged in includes:
11 Communication, voter education, voter registration,
12 candidate recruitment, and candidate education. Is that
13 an accurate and complete list of the main categories of
14 activities that TDP is engaged in?

15 MR. GEISE: Objection, mischaracterizes
16 the testimony.

17 But you can answer.

18 A. I don't think -- when you say is it a complete
19 list -- because I don't want to -- you know, it sounds
20 like a trick question here. If you want me to add on to
21 it, we raise money to do those activities. We do data
22 work to do those activities. We do work with county
23 parties and candidates and volunteers and activists and
24 voters to do those activities. It seems like I'm in a
25 circular question here.

1 Q. I'm not trying to --

2 A. We want voters to cast ballots. The main --
3 the only mission we have is for voters to vote for
4 Democratic candidates and for those Democratic
5 candidates to win. Anything more than that is getting
6 into granular things of how we do that. And I can talk
7 for hours if we want to do that; but you keep saying, "I
8 want to just go at the top level of stuff." So let's
9 stay at the top level. We educate voters. We register
10 them to vote. We educate them again about when the
11 election is, how to vote, where to vote to cast a vote
12 for a Democrat. That is the mission of TDP, pure and
13 simple; and that is it.

14 You might have five things on your list.
15 There's one thing on the list: Educate voters, register
16 voters, turn them out to vote. And I don't know what
17 else you're trying to get to. Be more specific.

18 Q. So does TDP participate in any activities that
19 don't fall into either communication, voter education,
20 voter registration, candidate recruitment, candidate
21 education, or fundraising?

22 MR. GEISE: I'm going to object, asked
23 and answered.

24 But you can answer.

25 A. Sure. We just had a staff party. None of

1 that was about voter education or voter registration or
2 turning out a vote.

3 I mean, we're a big institution. We do a
4 lot of things. I don't think any activities that are
5 officially done in a job description of an employee of
6 the Texas Democratic Party is outside of the goals of
7 educating voters, registering voters, and getting them
8 to cast a ballot for Democratic candidates. So, no, I
9 don't think we do anything outside of that mission.

10 Q. (BY MS. MACKIN) Educating, registering,
11 getting them to cast a ballot for Democratic candidates?

12 A. If you know something you only answer "yes" or
13 "no" when you do it, please ask me; but I can't think of
14 anything that's outside of that mission that the
15 employees of the Texas Democratic Party or its Executive
16 Committee or Chair does.

17 Q. Okay. Thank you.

18 All right. How would you describe TDP's
19 efforts to educate voters?

20 A. We communicate by e-mail, by text message, by
21 Twitter, by direct mail, by speeches by various
22 candidates, party officers, staffers. We go door to
23 door. We make phone calls. Any kind of communications
24 that humans possibly have, we do to talk about
25 Democratic values, registering to vote, how to get

1 registered to vote, when to go vote, and how to vote for
2 Democrats. So we communicate in all of those ways.

3 Q. And have you produced documents that reflect
4 those communications?

5 A. There are documents of e-mails that we have
6 sent to voters that were produced.

7 Q. Is there documentation of those other types of
8 communications that you mentioned?

9 MR. GEISE: Objection on the basis of the
10 First Amendment privilege.

11 I think you can answer "yes" or "no"
12 whether other types of communication with voters exist;
13 but other than that, I'm going to object on the basis of
14 the First Amendment privilege and instruct you not to
15 answer other than whether or not other types of
16 communications exist.

17 MS. MACKIN: And just to be clear, have
18 you-all produced a privilege log of documents responsive
19 to the subpoena that are being withheld?

20 MR. GEISE: Not -- well, no. I don't
21 think that a privilege log would need to hold every
22 communication that the Texas Democratic Party has with
23 voters because that would be millions, and that wasn't
24 what the subpoena requested. But, again, I don't think
25 that that needs to be a discussion for this deposition.

1 I would instruct the witness: You can
2 answer "yes" or "no" whether there are communications
3 outside of e-mails that the Texas Democratic Party has
4 with voters.

5 MS. MACKIN: And we can talk offline
6 about the scope of the objection; but based upon what
7 we've heard so far today, it appears that the response
8 to the subpoena's incomplete and that we have some
9 issues to resolve with respect to that.

10 MR. GEISE: Well, I don't know that
11 that's a topic for the witness; but you can answer "yes"
12 or "no" --

13 MS. MACKIN: I --

14 MR. GEISE: All right. So you can answer
15 "yes" or "no" whether or not there are communications
16 other than e-mails that the Texas Democratic Party has
17 with voters.

18 A. Can you be more specific what you mean by
19 that?

20 Q (BY MS. MACKIN) The question I asked --

21 MS. MACKIN: Ms. Cunningham, would you
22 mind reading back my last question?

23 THE REPORTER: Okay.

24 MS. MACKIN: Thank you.

25 (The requested material was read as

1 follows:

2 "QUESTION: Is there documentation of
3 those other types of communications that you
4 mentioned?")

5 A. Generically in my answer I was talking -- you
6 said what kind of communications do we have with voters,
7 I think was the original question; and I said we have
8 direct mail. That would be the glossy kind of mail that
9 you send a candidate -- to voters about issues or
10 candidates and giving voter information. I suppose we
11 have those laying around from the past election cycle.
12 We've not done those this election cycle yet.

13 But there's -- if we're asking if there's
14 communication about this case, no, I don't know of
15 anything that we have. I have no knowledge of anything
16 like that being in existence.

17 I was talking about generically what a
18 volunteer -- an organizer would -- how they would
19 communicate -- you asked how do we communicate, and so
20 that's what I was saying. The LGBT organizers talking
21 to LGBT voters could be passing out literature or hand
22 them a palm card or something that says about getting
23 ready to vote or passing out voter registration cards.
24 That's the kind of communication I was talking about.

25 You seem to be talking about

1 communications about this lawsuit; and, no, I don't have
2 any of those, never have seen any of those.

3 Q. (BY MS. MACKIN) Okay. How much did TDP spend
4 on voter education in 2014?

5 A. You know, I don't know that I can break out
6 voter education. I mean, the staff salaries for all of
7 the people we had in 2014, whether they're the data
8 person or the fundraising person or the comptroller's
9 salary or the executive director's salary or my salary,
10 I know that generically in 2014, we spent around
11 \$2 million, raised and spent.

12 Q. Total?

13 A. Total.

14 Q. So not limited to voter education, but
15 overall?

16 A. Well, there's -- I don't have any knowledge
17 about how to pull that out of my brain about what was
18 voter education and what was just institutional
19 organizational payroll and things. We could ferret out
20 that the comptroller is doing voter education if she's
21 processing the money that we pay for voter education.
22 So I don't know how you find -- I don't know the details
23 of how much was voter education versus any other
24 mission -- part of the mission. Approximately
25 \$2 million -- all of this is public record at the FEC

1 and TEC.

2 Q. So you couldn't tell me --

3 A. What we spent I cannot tell you, no, not
4 today, not from my memory how much of the \$2 million was
5 specific on voter communication, however nebulous that
6 is.

7 Q. How about voter registration efforts in 2014,
8 could you tell me how much TDP spent on voter
9 registration efforts in 2014?

10 A. No, ma'am.

11 Q. Okay. What about in 2015?

12 A. No. I mean, because --

13 Q. What about in 2016?

14 A. You're asking me --

15 MR. GEISE: Objection, asked and
16 answered. I think the witness has answered that it
17 would be impossible to calculate those numbers.

18 But you can answer to the extent of your
19 ability.

20 A. Well, I will just say that, you know, we
21 passed out a lot of voter registration applications,
22 most of those provided to us by the Secretary of State
23 at no cost. We did online voter registration. There's
24 a cost to maintaining that and staffing that. We mailed
25 out voter registration applications when people

1 requested them. We did rallies with voter registrars,
2 volunteer voter registrars. So to ferret out exactly
3 how much generally educating a volunteer how to do voter
4 registration and how much that time of training cost
5 down to the cent, I can't do. I cannot ferret it out.
6 It's impossible for us to even do that.

7 So part of -- part of our budget went to
8 voter registration; but figuring it out to the penny or
9 even a gross amount -- because, like I said, everybody
10 on our staff in almost every department, whether the
11 digital people are sending out links to go fill out a
12 voter registration application, whether an organizer's
13 standing at a door, whether an organizer is door
14 hanging, whether a college student is tabling on the
15 university campus, all of which are things that we
16 organize and train volunteers to do, the cost of that is
17 impossible to ferret out because everybody in our
18 department is somehow touching that. So I can't tell
19 you a number. It's impossible.

20 Q. (BY MS. MACKIN) And is that true for every
21 year between 2014 and 2020?

22 A. Yes.

23 Q. Okay.

24 A. Now, if you asked -- you know, at some point
25 in time, a person -- if we had done a mailing and I had

1 time to go research it, I could probably find out some
2 things; but I don't know that -- anything from memory
3 that I could pull out and give you a cost on.

4 Q. But you were designated to testify on Topic
5 4(d) in the Deposition Notice, were you not?

6 A. Yes, ma'am.

7 Q. Okay.

8 A. And I did not go and do ten years of stuff and
9 have it in my brain for this deposition this morning.
10 So, no, I don't know the details.

11 MS. MACKIN: So to that extent, then,
12 we're going to have to object to the preparedness of the
13 witness.

14 MR. GEISE: I think the witness -- I
15 think the witness said that it would be -- and I can
16 clean this up with some questions after; that's fine.
17 I'll wait to do that. But I think the witness testified
18 that it would be impossible to determine those numbers,
19 and he gave a top-line number for the question you
20 asked. So he can testify top line how much was spent.
21 He's indicated that all of the Texas Democratic Party's
22 spending is publicly available on both the FEC and the
23 Texas Ethics Communication website and is happy to
24 testify about any specifics of those that you want to
25 provide him for and ask him about.

1 And I don't think that the witness needs
2 to be prepared to do something which is impossible.
3 He's testified that he can give top-level amounts. He's
4 prepared to talk about programmatic aspects of every one
5 of those years, the programs they did; and I think that
6 top-line amounts and programs is, from the witness'
7 testimony, the only level of detail that would be
8 possible for anyone to testify to. So I don't know how
9 we would prepare anyone to do more than that. Having
10 said that --

11 MS. MACKIN: I think that this --

12 MR. GEISE: Again, this is a discussion I
13 suppose should be offline.

14 Q. (BY MS. MACKIN) Just to make sure everything
15 is perfectly clear, all activities on which TDP has
16 spent funds or to which TDP has dedicated resources in
17 Texas between January 1st, 2014 and the present
18 including, total funds spent on voter registration
19 efforts, that number is not -- is it your testimony,
20 Mr. Maxey, that that number is not knowable?

21 A. It is not knowable.

22 Q. Okay. How does the Texas Democratic Party
23 track the success of its voter education efforts -- or
24 let me ask that better.

25 Does the Texas Democratic Party track the

1 success of its voter education efforts?

2 A. I think that's a broad question. We do
3 metrics, you know. We know when we send an e-mail how
4 many people open the e-mail. We don't know if they read
5 it or not. We know that they opened it.

6 We know that -- studies are done over
7 time that there are areas of Texas where we do door-
8 to-door activities or have done series of mailings to
9 voters to persuade them or educate them; and after an
10 election, we do analysis of are the turnout patterns
11 bigger where we did those efforts or didn't.

12 We make a phone call to a voter. We tell
13 them to go vote. We then look at daily, during early
14 vote, whether that voter has cast a ballot or not. If
15 we had done a million of those calls and nobody that we
16 called voted, we would probably stop making the phone
17 calls.

18 So, yes, we track all of this stuff to
19 the best of our abilities using technology, pen and
20 paper, you know, marks on a walk sheet about who we
21 talked to, whether that person then went to vote. And
22 whether in those precincts where we have done activities
23 we won the precinct or didn't win the precinct tells us
24 a lot about activities. So yes, yes, we do.

25 Q. And so does TDP adjust -- I mean, I think you

1 said this; but I want to make sure it's clear. Does TDP
2 adjust its activities based on the success rate?

3 A. Sure. I mean, let me just say that, you know,
4 in my world of asking the Legislature to do things, I've
5 asked the Legislature to pass bills allowing people to
6 go online and register to vote. If that were the case
7 in Texas, we would not be spending the time and effort
8 to go door to door, to table, to mail out voter
9 registration applications to newly -- new arrivals in
10 Texas or people who moved in. We wouldn't be doing all
11 that activity, expending that money, expending that
12 staff time if we had more accessible voter registration
13 in Texas. So, yes, we are changing our programatic
14 stuff in response to the voter suppression in Texas day
15 by day.

16 So that is our mission is to educate
17 voters. We have big impediments in Texas for voter
18 registration, the most restrictive state in the nation
19 for registering people to vote. And so we spend a
20 myriad amount of money and adjust our budget accordingly
21 to all of the impediments that are put in front of us.

22 MS. MACKIN: Objection, nonresponsive.

23 Q. (BY MS. MACKIN) I don't think my question was
24 very clear. I apologize.

25 We've talked about registering voters.

1 Are TDP's voter registration efforts focused on
2 targeting Democratic voters?

3 MR. GEISE: I'm just going to object on
4 the basis of the First Amendment privilege. I think the
5 question is fine.

6 But I would instruct the witness again
7 that based on the First Amendment privilege, all these
8 things going into specific strategy of the Texas
9 Democratic Party, I would instruct the witness you can
10 answer at a high level.

11 So I think that specific question is
12 fine, but I just want to continue to note that objection
13 for the record.

14 MS. MACKIN: If we could please limit the
15 speaking objections, to keep objections to the rules and
16 an instruction not to answer, I would appreciate it.

17 A. Yes.

18 Q (BY MS. MACKIN) Okay. The Texas Democratic
19 Party began a new voter registration campaign in January
20 of 2020; is that correct?

21 A. That's correct.

22 Q. Okay. I am going to show you some
23 documents -- actually, rather than show you, I will send
24 around a link so that you can view them. And these
25 documents were produced by your counsel in response to

1 the subpoena duces tecum related to this deposition.

2 If you received that file, if you would,
3 please pull it up for me, Mr. Maxey; and let me know
4 when you're ready to discuss it.

5 A. I got it.

6 Q. Okay. And do you recognize this document?

7 A. Yes, it's an e-mail that was sent out by our
8 digital department from me to people on our e-mail list,
9 asking for donations to do voter registration and vote
10 by mail. I guess this one is a vote-by-mail thing.

11 Q. And how does the Texas Democratic Party --
12 well, strike that.

13 You mentioned your e-mail list. Who
14 would be on that e-mail list?

15 A. Anybody who has requested to be on the list.
16 People who give us an e-mail at events, at our
17 convention, asking to be on our list.

18 Q. And a little ways down on this e-mail it talks
19 about a contribution to our vote-by-mail fund. Do you
20 see that?

21 A. Yes.

22 Q. What is the vote-by-mail fund?

23 MR. GEISE: I'm going to object on the
24 basis of the First Amendment.

25 You can talk generally -- actually, no.

1 You can answer that question. To the extent it doesn't
2 implicate internal strategic matters of the Democratic
3 Party, you can answer that question at a high level.

4 A. It's a euphemism for money we would like
5 people to give to us that we might use for sending out
6 applications for seniors, disabled, and people out of
7 the county to vote by mail.

8 Q. (BY MS. MACKIN) And do you know if the funds
9 that were raised in response to this e-mail went
10 directly to the vote-by-mail fund?

11 MR. GEISE: I'm going to object on the
12 basis of the First Amendment privilege. I think that
13 the internal financial matters of a political
14 organization are core First Amendment protected. And I
15 would instruct the witness not to answer. I think he's
16 answered at the level that is adequate under a First
17 Amendment privilege.

18 MS. MACKIN: The Protective Order entered
19 in this case allows you to designate any portion of this
20 transcript as confidential if you wish, so --

21 MR. GEISE: There's case law on a
22 privilege -- on a Protective Order still not infringing
23 or not requiring the infringement of the First Amendment
24 privilege. So I would still instruct the witness not to
25 answer on the basis of the First Amendment privilege

1 that the internal financial matters of a political
2 organization are core First Amendment protected. I
3 would instruct the witness not to answer.

4 MS. MACKIN: I'm not asking about
5 internal financial matters. I'm asking a question that
6 appears on the face of this document which was produced
7 to us.

8 MR. GEISE: He answered what the
9 vote-by-mail fund was. I think that asking the next
10 question, which is what I objected to -- I think that
11 asking the next question beyond that about internal
12 financial decisions of the Texas Democratic Party is
13 core First Amendment protected. I would instruct the
14 witness not to answer.

15 MS. MACKIN: I'm not inquiring into
16 internal financial decisions of the Texas Democratic
17 Party. The issue of spending -- okay.

18 Q (BY MS. MACKIN) Are you going to decline to
19 answer my question on the advice of your counsel,
20 Mr. Maxey?

21 A. I do.

22 Q. Okay. So down here it also says, "Can you
23 make a \$7 contribution to our vote-by-mail fund so we
24 can send 21 Texans their application?" Did I read that
25 correctly?

1 A. That's what it says.

2 Q. And so how much does it cost to send one Texan
3 a vote-by-mail application?

4 A. Do you want to know the postage?

5 Q. I want to know how much it costs the Texas
6 Democratic Party.

7 A. Well, approximately -- I mean, if you're doing
8 the math here, you can divide \$7 by 21; and you'll sort
9 of get what the cost is. There is the actual postage.
10 There's the printing. There's the lasering. There's
11 paying of the mail house. There is the cost of the
12 paper. There is all of that. I would have to have a
13 calculator to do the math here, but I'm thinking it's
14 around about 30 to 33 cents.

15 It's different in each county, depending
16 on whether I am sending a hundred thousand into a postal
17 zone or whether I'm sending fifty, because it's a
18 different postage rate. So I cannot tell you
19 definitively the cost of a single piece. On average
20 they're probably about 32 cents.

21 Q. Are you aware that Texans can request a
22 vote-by-mail application be mailed to them for free on
23 the Texas Secretary of State's website?

24 A. Do what?

25 Q. Are you aware that on the Texas Secretary of

1 State's website Texans have an ability to request that a
2 vote-by-mail application form be mailed to them for
3 free?

4 A. Yes.

5 Q. I'm going to show you another document which
6 is part of Exhibit 2 and begins at TDP 33.

7 THE REPORTER: Excuse me, Ms. Mackin.
8 I'm sorry.

9 MS. MACKIN: Yes.

10 THE REPORTER: That last document that
11 you displayed, did you want that marked as an exhibit?

12 MS. MACKIN: So all of these documents
13 that begin with the TDP preface, they're all going to be
14 Exhibit 2.

15 THE REPORTER: Okay. Thank you.

16 MR. GEISE: Is now a good -- I know we've
17 been going for a little over an hour. Is now a good
18 time for a break?

19 Glen, I don't know if you want one. I
20 could use a five-minute break.

21 THE WITNESS: I need to use the restroom.

22 MS. MACKIN: Sure.

23 MR. GEISE: I figured. All right.

24 MS. MACKIN: Come back at 11:25.

25 MR. GEISE: Great.

1 THE REPORTER: We're going off the record
2 at 11:18 a.m.

3 (Off the record from 11:18 to 11:27 a.m.)

4 THE REPORTER: We are back on the record
5 at 11:27 a.m.

6 MR. GEISE: We can't see you, Glen. I
7 don't know if you can bring us back up.

8 There you go.

9 THE WITNESS: The technician must have
10 turned my camera off.

11 MR. GEISE: Yeah. Just fire that guy.

12 MS. MACKIN: All right.

13 THE WITNESS: Are we talking about a
14 document?

15 MS. MACKIN: TDP 33.

16 THE WITNESS: Okay. Got it.

17 MR. GEISE: Sorry. Did you -- is it in
18 the -- it's not in the -- oh, there it is. It just came
19 up for me.

20 Q (BY MS. MACKIN) Do you recognize this
21 document, Mr. Maxey?

22 A. It's an e-mail sent by the Texas Democratic
23 Party, yes.

24 Q. And it looks to me that there's a box that
25 says, "What we did this year," colon, and that there is

1 no text underneath that. Do you know if that's how the
2 e-mail went out to your Listserv?

3 A. I expect that this is a technical thing of it
4 not showing on this thing. I'm sure it had things that
5 we had did -- we had done that year.

6 Q. Okay.

7 MS. MACKIN: And I guess we'll just
8 request a supplementation with a legible copy.

9 MR. GEISE: Yes, I will make a note of
10 that.

11 MS. MACKIN: And I don't think I need to
12 show it to the witness. I'll just let you know,
13 Counsel, the same issue was present in TDP 37 as well.

14 MR. GEISE: Okay. Okay.

15 Q (BY MS. MACKIN) Okay. I'm going to circulate
16 the document marked TDP 43. Mr. Maxey, please take a
17 look at that and let me know when you're ready to
18 discuss it.

19 A. All right.

20 Q. Do you recognize TDP 43?

21 A. It's an e-mail from Cliff Walker that went out
22 to our e-mail list.

23 Q. Okay. And it looks like it's a forward of an
24 e-mail from Representative Gina Calanni; is that right?

25 A. Yes.

1 Q. And down on the page marked TDP 44, about
2 25 percent of the way down the page --

3 A. Uh-huh.

4 Q. -- it says, "Texas Democrats' vote-by-mail
5 program made the difference between my victory and my
6 defeat. Without their vote-by-mail initiative, I
7 wouldn't be where I am today." Did I read that
8 correctly?

9 A. Yes.

10 Q. And how did TDP know that
11 Representative Calanni's 113-vote margin of victory was
12 attributable to Texas Democrats' ballot-by-mail program?

13 A. I mean, this is like everything in an
14 election. If you win by a small margin, most any
15 program you did is that margin. We do know in this
16 district -- I don't know the numbers offhand -- but we
17 do know that several thousand seniors voted by mail as a
18 result of the application we mailed them because we
19 track the senior getting the application through the
20 mail and mailing it back to their clerk. So because we
21 did a vote-by-mail program, several thousand seniors
22 voted in her district; and that number of voters is more
23 than her margin of victory by a long shot.

24 Q. How do you know that all those voters voted
25 Democrat -- well, specifically, how do you know that all

1 those voted for Representative Calanni?

2 A. We don't. But I'll elaborate: The chances
3 are that if you send an application to a person who's
4 voted in multiple Democratic primaries and then they
5 vote in a general election, they -- more than likely,
6 there is probably a high percentage -- in the 85
7 percentile or above -- that they voted for a Democrat.

8 Parties don't send stuff to opposing
9 voters. We target and, therefore, the people we sent
10 the application to almost entirely are people who voted
11 in the Democratic primaries.

12 Q. And then down at the bottom, the last sentence
13 says, "Can you make a \$7 contribution to the Texas
14 Democratic Party so we can send 21 Texans their
15 application?" Were all of the funds generated by this
16 e-mail used to send Texans applications to vote a ballot
17 by mail?

18 MR. GEISE: I'm going to, again, object
19 on the internal use of fundraising of a political party
20 as core First Amendment protected and instruct the
21 witness not to answer on the internal use of funds on
22 the basis of the First Amendment.

23 A. I decline to answer on advice of counsel.

24 MS. MACKIN: Okay. And so to the extent
25 that I have anymore questions about the e-mails that

1 were produced that were asking for contributions and
2 then what those contributions were ultimately used
3 for --

4 MR. GEISE: Yeah, we're -- the witness is
5 going to -- I mean, I'm going to instruct the witness
6 not to answer on the internal financial decisions of the
7 Texas Democratic Party on the basis of the First
8 Amendment privilege as going to the core of the First
9 Amendment.

10 He can talk generally -- the witness --
11 just so we're clear, I think that if you ask general
12 questions about how the Texas Democratic Party makes
13 funding decisions, how they decide where to allocate
14 funds, the witness can answer at a high level, that that
15 does not go into specific internal strategy or a
16 specific use of specific funds.

17 I think the First Amendment protects the
18 core; but if you want to ask the witness high level, how
19 does the Texas Democratic Party decide to allocate
20 funds, how do they decide to allocate funds, even in a
21 specific year, at a high level, I think that you're
22 entitled to inquire into that. It's just I think the
23 specific use of specific funds is core First Amendment
24 protected by numerous decisions, and I would instruct
25 the witness not to answer.

1 MS. MACKIN: And is it your position that
2 the e-mails that were produced which make a specific ask
3 for a contribution fall within that category?

4 MR. GEISE: Well, I don't think -- I
5 think that asking once someone sent the Texas Democratic
6 Party specific funds in response to a specific e-mail,
7 where did those funds go is core First Amendment
8 protected by numerous decisions that would go to -- and
9 even with a Protective Order, a Protective Order in
10 multiple cases does not entitle you -- it's the same way
11 it doesn't inquire [sic] you to entitle [sic] into the
12 attorney-client privilege. It doesn't entitle inquiry
13 into things that are protected by the core of the First
14 Amendment. So I would instruct the witness not to
15 answer.

16 A. Let me answer a general answer so that we're
17 clear. All fundraising that the Texas Democratic Party
18 asks donors to make is done in the context of --
19 typically of: Help us pay for a program, which is what
20 this is. Help us send out vote-by-mail applications.
21 By law we cannot dedicate -- if a donor gives us a
22 hundred dollars and says spend this only on vote by
23 mail, a donor may not do that. We cannot target their
24 donation. The Party must and does make decisions on all
25 of its funds coming in on how to spend. It cannot be

1 directed by the donor to go for a specific candidate or
2 a specific program. They can donate toward it, and we
3 can then choose to use it for that program or not.

4 In this particular issue on the specific
5 question you asked about the \$7 for 21 applications, in
6 all of these vote-by-mail programs, the cost of the
7 program is considerably larger than what the individual
8 donors donate. And it comes from county parties. They
9 come from candidates. It's come from major donors to
10 perhaps raise, you know, a quarter million dollars to do
11 a program like this. The individual \$7 somebody spent
12 may or may not be used exclusively in that program.
13 Typically, because it's less than the program, you could
14 say you give it towards the program; we used it there.
15 But the donor is not ultimately -- the money is not
16 directly for mail-outs.

17 MS. MACKIN: Okay. Thank you for that
18 explanation.

19 Just to make sure that we are clear, to
20 the extent that I would inquire about other e-mails
21 produced and about what the funds generated in response
22 to that e-mail were used for, you would object and
23 instruct the witness not to answer, Counsel; is that
24 right?

25 MR. GEISE: Yes. And I would instruct

1 him to answer in the manner that he just did, which is,
2 I think, that the funds can't be -- even if the donor
3 wanted to, funds are not, by law, allowed to be put to
4 X, Y, or Z, which I think he's answered. So I think
5 he's provided an answer to the question at the level
6 that we believe Counsel is entitled to inquire into.

7 Q. (BY MS. MACKIN) And, Mr. Maxey, again, just
8 to be clear, if I were to inquire into the use of funds
9 in response to a specific e-mail produced today, you
10 would follow your attorney's instruction not to answer
11 such questions; is that right?

12 A. That is correct.

13 Q. Okay. Thank you.

14 A. My answer about targeting funds would apply.

15 MS. MACKIN: Okay. I'm going to share
16 a document with everyone on the chat function marked
17 TDP 63.

18 Q. (BY MS. MACKIN) Mr. Maxey, please let me know
19 when you've had a chance to open up that document and
20 are ready to discuss it.

21 A. All right.

22 Q. Do you recognize this document?

23 A. It's an e-mail from Manny Garcia to our e-mail
24 list.

25 Q. And this e-mail discusses -- the second

1 sentence of the e-mail reads, "There are about
2 2.6 million unregistered voters in Texas who are likely
3 to vote Democratic if registered." Did I read that
4 correctly?

5 A. That's correct.

6 Q. And what is the source of that statistic?

7 A. There are many groups that do analytics on the
8 population of the state of Texas. The Texas Legislative
9 Council does such work, how many people are in Texas,
10 how many are registered to vote, how many are voting age
11 population or not. So you take the number, which is
12 around, I think -- well, I don't know it off the top of
13 my head -- but there is a bigger number than 2.6 million
14 people who are unregistered in Texas who are legal
15 citizens who could register. You can apply a simple
16 algorithm to it of how many people in the general
17 population did have similar characteristics of income,
18 geography, ethnicity, age, those kinds of analytics to
19 come up with that there's 2.6 million unregistered
20 Texans who are likely to vote Democratic.

21 Q. And so did TDP come up with this 2.6-million
22 figure?

23 MR. GEISE: I'm going to object and
24 instruct the witness to not answer to the extent it's
25 internal strategic information. I think the witness has

1 provided a broad overview of how that number could be
2 arrived at -- well, I guess the witness -- you can
3 answer "yes" or "no." But I think any inquiry other
4 than that would be prohibited by the First Amendment.

5 Q. (BY MS. MACKIN) To be clear, I'm just trying
6 to determine the source of this statistic that is
7 provided in this e-mail. I'm not asking how it was
8 calculated.

9 A. To my knowledge, this is a number that's come
10 from a source outside of TDP's staff. We did not crunch
11 the numbers to get here. This was something that's been
12 published along the way, and I don't have memory of
13 where it was published.

14 Q. Fair enough.

15 A. If the Legislative Council comes up with a
16 number of unregistered Texans and then we -- our data
17 team could come up with a demographic about what
18 percentage of those people were likely to be Democrats,
19 I would expect; but I'm not fully aware.

20 Q. Okay. So this e-mail describes -- well, the
21 third sentence says, "That's why we're launching a voter
22 registration program unlike any other in Texas history
23 by" and then it lists -- there's five bullets underneath
24 that. The first one says, "Investing in cutting-edge
25 data programs to turn out new voters." Can you tell me

1 at a high level about those programs, not going into
2 anything --

3 A. Sure.

4 Q. -- internally sensitive or First Amendment
5 protected?

6 A. For instance, there's approx- -- there are
7 tens of thousands of new people moving into Texas every
8 day from around the country. We know by data source of
9 where they were registered to vote before they got here,
10 what their demographics of being a Democrat were, their
11 sort of data score being Democratic. And so we know
12 they're in Texas. We know their name and their address
13 from the post office. And so using cutting-edge data,
14 we can figure out approximately 30,000 Democrats move to
15 Texas each month that we need to get registered to vote.
16 That's one example of using cutting-edge data to target
17 people who are likely to be Democrats who are
18 unregistered who need to be registered.

19 We have the same kind of technology to
20 figure out that when somebody moves from Dallas to
21 Houston, they are no longer able to vote in general
22 elections unless they get registered in Harris County
23 unless they vote a limited ballot, which is highly
24 difficult to do; and then they won't be able to vote in
25 down-ballot races. So we use cutting-edge data programs

1 to identify those improperly registered Texans, to get
2 them registered in their appropriate county.

3 That's it.

4 Q. Okay. Thank you for that.

5 And then the second bullet point says,
6 "Deploying 1,000 field organizers and canvassers on the
7 ground to register voters in person." I think we've
8 talked about this. I think that seems pretty clear on
9 its face what that is.

10 The third bullet, "Adopting a digital
11 approach to voter registration through our online hub
12 MyTexasVotes.com." What is MyTexasVotes.com?

13 A. It's a website maintained by the Texas
14 Democratic Party that gives basic voting information.
15 You can look up your precinct on the early vote
16 locations nearest you, find your voting center or
17 precinct for election day, get a map to that location,
18 find out the hours of early voting or hours of voting on
19 election day. You can check your voter registration.
20 You can request a mail ballot application. You can
21 request a voter registration application, or you can
22 fill out an application online and print it out through
23 the system that is provided. It's a voter education --
24 it's an activation website.

25 Q. And where does the data on MyTexasVotes.com

1 come from?

2 A. The Texas Secretary of State, local county
3 elected officials of polling places.

4 Q. And are you aware that an individual can
5 request a postage-paid voter registration application be
6 mailed to them on the Texas Secretary of State's
7 website?

8 A. When the website works.

9 Q. So are you aware that an individual can --

10 A. Yes, but we are making it -- this is making it
11 convenient to our voters. A person in Texas can
12 register to vote by handwriting it out on a napkin and
13 putting it in an envelope and mailing it in. You don't
14 have to use the Texas Secretary of State's website.

15 So, yes, you can do it on the Secretary
16 of State's website. You can do it at MyTexasVotes.com.
17 You can do it at Vote.org, Register2Vote.com [sic.]
18 There's lots of places you can register to vote.

19 Q. And you mentioned that MyTexasVotes.com makes
20 it more convenient or -- I don't remember specifically
21 what your words were -- but that it can make it more
22 convenient for some folks. Can you explain that to me a
23 little more? How does it make it more convenient?

24 A. Well, every -- during an election season,
25 every piece of e-mail, every mail-a-candidate-across-

1 Texas, a thousand Democratic candidates, everything on
2 it says, "For voter information, go to MyTexasVotes."

3 So they go there. They find everything
4 they might need to know in one location. They're not
5 searching a very unfriendly website at the Secretary of
6 State or in -- let's just say -- I passed legislation
7 this last session -- I got legislation passed, drafted
8 and then lobbied it, to require election clerks to
9 actually have a website with their voting locations
10 because approximately a third of the counties in Texas
11 didn't post that information.

12 So MyTexasVotes is a way for us to tell
13 anybody that we come in contact with during an election
14 season, "If you need any of this information, where to
15 vote, when to vote, click on MyTexasVotes; and you can
16 find it there."

17 Q. Okay. And then the fourth bullet says,
18 "Mailing hundreds of thousands of voter registration
19 cards." What do you mean -- what does the phrase "voter
20 registration cards" mean in this context?

21 A. Voter applications. A hard-copy piece of
22 paper that a person signs, puts in a postage-paid
23 envelope, and sends to their voter registrar.

24 Q. And how does the Texas Democratic Party
25 determine whom to mail a voter registration application

1 to?

2 A. People who we believe are not registered at
3 their current address.

4 Q. Based on your data analytics?

5 A. Yes.

6 Q. And why not just go on the Secretary of
7 State's website and request that the State send a voter
8 registration application to their -- to those folks?

9 A. Obviously, because, A, the voter would have to
10 find that SOS link, print out the paper -- and many
11 voters don't own a printer or print --

12 Q. No, no, no, no. I'm talking about the link on
13 the Secretary of State's website where one can request
14 that a postage-paid application be mailed --

15 A. A, have the computer to do that. But when you
16 get there, you can ask them, yes, to send you a form.
17 It is a laborious process. It takes a week or more for
18 people to get that piece of paper. Then they have to
19 fill it out and mail it in.

20 Often, we -- most people register -- I
21 mean, a considerable amount of people register in the
22 last weeks before the registration deadline. And asking
23 the Secretary of State to send a blank piece of paper to
24 you for you to fill out and then send back in, to get it
25 in before that deadline often causes, let's say, tens of

1 thousands of people not to make the deadline.

2 So we make a decision of sending a
3 registration card in August to people that we know are
4 not registered to vote already, for them to have
5 convenience to fill it out. That's what you call "how
6 you win an election." We don't wait for people to
7 figure it out. We make it available to them so that
8 they can take advantage of it by just filling in their
9 personal data, signing it, putting it in a postage-paid
10 envelope coming with the application.

11 In other words, we're not waiting for
12 people to ask. We are sending people who are unaware
13 that they need to register to vote because they have not
14 been educated. Remember that voter education project?
15 "Hey, you have to get on a registration list. We're not
16 a state with automatic voter registration. I'm sure you
17 vote -- you moved here from Washington, but you're not
18 going to automatically be on the voter registration
19 roles. So you need to fill out a piece of paper."

20 That's why we mail it to them and not
21 just wait for people. If we waited for people, then the
22 voter registration would be sorely lacking in Texas.

23 Q. So --

24 A. And, frankly, the majority of people in Texas,
25 just so I can say this again, register when they get

1 their driver's license. That is the Number 1 place that
2 people register to vote for the first time; and they
3 could update their registration if the State of Texas
4 was following the federal law.

5 Q. How do you know that the majority of people
6 register for the first time in connection with getting a
7 driver's license?

8 A. The Texas Secretary of State announced that.

9 Q. You mentioned a moment ago something about how
10 tens or hundreds of thousands of people would miss the
11 voter registration deadline by attempting to request a
12 form be mailed to them from the Secretary of State's
13 office. Did I understand your testimony correctly?

14 A. The deadline is 30 days before an election,
15 and we are depending on people to ask the Secretary of
16 State to send them by bulk e-mail a voter registration
17 paper form. And a person asks for that a week before
18 the deadline. The Secretary of State takes
19 approximately a week to mail that application to them.
20 They get it. If they fill it out and drop it in the
21 mail, it will be after the deadline. And across the
22 state of Texas in every general election, there are
23 thousands upon thousands of people whose application
24 comes in on the 29th, the 28th, the 27th, the 26th day
25 before an election. They all get a letter saying,

1 "Sorry. You're not registered to vote because you
2 didn't hit the magic 30-day deadline."

3 Q. And how do you know that?

4 A. How do I know that?

5 Q. Yes.

6 A. Because the election -- every -- I hear
7 anecdotally, as somebody who deals with voter protection
8 on our hotline, we have hundreds of people calling us
9 and say, "Well, I mailed my application."

10 And we investigate with the registrar,
11 "Did you receive an application from Joe Smith?"

12 And they say, "Yes, we received it 28
13 days before the election. It was after the deadline."

14 So I've been doing this for 50 years.
15 Every election cycle there are people who are rejected
16 because their application comes in too late.

17 It is a known fact. Any election
18 administrator talks about this problem. If we had
19 automatic voter registration and online voter
20 registration, we wouldn't have this problem; but, you
21 know, that's an argument that we've made to the
22 Legislature and others about depending on people mailing
23 a signed piece of paper.

24 Q. Is it your testimony that if Texas had online
25 voter registration, people would not submit their voter

1 registration applications after the deadline?

2 A. No. I'm going to say that the problem of the
3 U.S. Post Office delaying delivering an application
4 would go away.

5 Q. How does the U.S. Post Office delay delivery
6 of a voter registration application?

7 A. Because it takes -- it's not instantaneous.
8 If you could register online, when you hit submit, you'd
9 be registered to vote. If I have to take a piece of
10 paper on three days before the deadline and drop it in
11 the mail -- and in rural Texas, it typically takes
12 something that's mailed in Taylor, Texas to go to
13 Georgetown, 5 miles away or 8 miles away, it has to go
14 first to Dallas and back to Georgetown; and it takes
15 three days. So that person mailing it two days before
16 the deadline won't get registered because the post
17 office process of delivering mail takes more than
18 instantaneous. Online voter registration is
19 instantaneous. People --

20 Q. Where?

21 A. Huh?

22 Q. Where?

23 A. Thirty-eight states where people register
24 online.

25 Q. It's instantaneous?

1 A. As soon as you fill it in and hit "submit,"
2 you are registered to vote -- well, I mean, let me be
3 technical. As soon as you do it, your application has
4 met the deadline. The clerk then makes sure that you
5 are who you say you are and does all of the required
6 stuff, but you have met the 30-day deadline when you
7 submit it.

8 Q. Do all of those states have a 30-day deadline?

9 A. No, some of them have automatic registration.
10 You're on the list when you submit it to vote. Texas is
11 the most archaic voter registration state in the United
12 States. It has more impediments than any other state
13 imposed by Republicans for voter suppression.

14 Q. What is the basis for that statement?

15 A. Fifty years of personal knowledge. Going back
16 to almost 50 years ago when I was turned away from being
17 a deputy voter registrar because I was a college
18 student, a federal lawsuit was filed by university
19 students at Prairie View. I was at Sam Houston State.
20 I go back 50 years knowing about the problems of voter
21 registration in Texas that people in the other -- at
22 least another 40 states don't have, including --

23 Q. This is based on your anecdotal experience in
24 the state of Texas, right?

25 A. My personal. Not anecdotal, my personal

1 experience.

2 Q. Sure.

3 A. You don't have to be deputized to register
4 someone to vote in almost any state in the country other
5 than Texas. I've trained thousands of people to be
6 deputy voter --

7 Q. Okay. Mr. Maxey, I appreciate it. I haven't
8 asked a question. So if you could please just let me
9 ask a question and then answer, I would appreciate that.

10 A. Glad to.

11 Q. Thank you.

12 MS. MACKIN: All right. I am going to
13 share with everyone TDP 73.

14 Q. (BY MS. MACKIN) And please take the time you
15 need to review it and let me know when you're ready to
16 discuss it.

17 A. Okay.

18 Q. Do you recognize this document?

19 A. An e-mail from me to our e-mail list.

20 Q. Okay. Dated February 7th, 2020?

21 A. Yes.

22 Q. Okay. And this e-mail says, "We kicked off
23 our Voter Protection Fund so we can expand Texas voters
24 access to the ballot box." Can you please tell me at a
25 high level what the Texas Democratic Party's Voter

1 Protection Fund is?

2 A. It is a generic way to -- euphemistic way to
3 talk about money that we expend to do what is commonly
4 called "voter protection" being done by campaigns and
5 candidates and parties everywhere. Voter protection
6 includes having things like a hotline where a voter can
7 call in and say, "I'm not on the voter registration
8 list. Can you help me figure out why I'm not registered
9 to vote?" And we then do the investigation and assist
10 that voter.

11 And so voters call in. They call in and
12 ask about where their polling place is, hours of voting.
13 All of the information that we have on MyTexasVotes we
14 answer orally by phone call.

15 We have lawyers stationed around Texas
16 during voting periods that can go in person to a polling
17 place or to a clerk's office and assist a voter in
18 making sure their right to vote is not infringed upon.

19 We train volunteers in every county to
20 talk to voters, perhaps standing outside of polling
21 places, even, to give people information; or if they're
22 having problems, make sure that we rectify those
23 problems while the polls are still open.

24 All those things are generically called
25 voter protection; and that's why we raise money, to have

1 a staff of people.

2 Q. Okay. Thank you. That's all I have on that
3 document. I'm going to close out of that.

4 MS. MACKIN: And then I'm going to share
5 with everyone the document marked TDP 139, still a part
6 of Exhibit 2, just as all of these documents are.
7 Actually you know what? Rather than -- there we go.

8 Q. (BY MS. MACKIN) Mr. Maxey, please feel free
9 to take your time to review the document and let me know
10 when you're ready to discuss it.

11 A. It's taking forever to load.

12 Q. It's a bigger one than some of the previous
13 ones.

14 A. It's about halfway.

15 Okay.

16 Q. All right. And if I can direct your attention
17 to the page marked TDP 140, there's a bit of white text
18 that's offset by a shadow of a ballot box behind it that
19 says, "Looking forward to 2020. There remains 2.6 [sic]
20 unregistered voters in Texas who are likely to vote
21 Democrat if registered." Just to clarify, that's based
22 on the same information as the e-mail we talked about
23 earlier that provided that 2.6-million figure?

24 A. Yes.

25 Q. Okay. And then a little ways down the page,

1 right under that graphic, actually, it says, "During the
2 2018 midterm elections, thanks to our voter registration
3 initiatives, we helped 133,000 Democratic Texans
4 register shortly before the registration deadline and
5 120,000 of those who registered voted." Did I read that
6 correctly?

7 A. You did.

8 Q. How did the Texas Democratic Party help
9 133,000 Democratic Texans register shortly before the
10 registration deadline in the 2018 midterms?

11 A. We mailed out approximately a half million
12 voter registration applications to unregistered Texans
13 and tracked that 133,000 of those people returned those
14 applications to their voter registration clerk. And
15 after the election, we checked the voter rolls to see
16 how many of the 133 people voted; and 120,000 of them
17 actually cast a ballot.

18 Q. And in order to track who returned an app- --
19 well, how does the Texas Democratic Party track which
20 voters returned an application that the TDP sent the
21 voter to the county registrar?

22 A. We use a program called Intelligent, I think,
23 of the U.S. Postal Service, by putting a bar code on the
24 application. And the Post Office tells us when the
25 voter has mailed that application to their clerk. It's

1 a business application that almost any direct mail
2 company -- I mean, direct mail that a business does uses
3 to track whether somebody has returned a payment or, in
4 our case, returned a voter registration application.

5 Q. And so I know that after the election, it's
6 publicly available to find out whether somebody voted in
7 that election. Is there a way to determine -- TDP can
8 determine that the application they sent was then sent
9 on to the county registrar. Can they determine whether
10 or not the registrar accepted the application and
11 registered the voter?

12 A. Yes. We can -- we get a list of newly
13 registered voters.

14 Q. Okay.

15 A. And those that have been processed, we buy
16 those weekly -- or pay the fee to get them from the
17 Secretary of State weekly, put them in our file so we
18 can know that they're on the list. If they're not on
19 the list, we inquire -- if there's time left. Typically
20 this is happening right at the election. But if we're
21 doing this long term, if the registration application,
22 we have tracked that it was returned but they don't show
23 up on the roll, then we can inquire with the voter
24 and/or the registrar the reason the application was
25 rejected and get that person re-registered correctly.

1 Q. And I apologize if we've already covered this.
2 I just want to make sure I understand. And it's getting
3 a little close to lunch, so my blood sugar is a little
4 lower; but before you send out the voter registration
5 applications, how do you determine whether an individual
6 is already registered? Where does that information come
7 from?

8 A. It's simple data analytics. You take the list
9 you're going to mail to and you plop it against the
10 people who are on the list; and if they're on the list,
11 you remove them. And the people left are the people
12 that are not registered.

13 Q. Okay. Thank you.

14 All right. Let's scroll down to the next
15 page, TDP 141.

16 A. Okay.

17 Q. So this mentions, at the very top, that an
18 estimated 2.6 million Texans are likely to vote
19 Democratic if they are registered. How does the Texas
20 Democratic Party intend to try to register those folks?

21 MR. GEISE: And, again, I'm just going to
22 instruct the witness to answer at a high level without
23 infringing on anything that's First Amendment protected.

24 A. We will (inaudible.)

25 (Reporter requests repeat.)

1 THE WITNESS: Sorry. I had a pillow on
2 my lap, and it probably covered up the...

3 A. We will train tens of thousands of deputy --
4 or get trained through their clerk tens of thousands of
5 deputy registrars who will register people in their
6 communities. We will have tabling on college campuses.
7 We do a program right on the deadline tabling in
8 probably 5- or 6,000 locations around Texas all day
9 long. We will mail probably during this cycle close to
10 a million voter registration cards or applications out
11 to people we perceive that are unregistered in the
12 program we just talked about. We will direct people
13 through social media, online digital ads to
14 RegisterTexas.com, a voter registration app that we
15 have.

16 We will have people phoning -- or
17 organizers going where -- you know, our LGBT organizer
18 will go to LGBT events; our Muslim organizer will go to
19 Muslim events and ask people to register to vote.

20 So there are literally dozens upon dozens
21 of voter contact ways. Any and everything that we do,
22 there will be a voter registration component to it
23 between now and the 30-day deadline before the November
24 election.

25 Q. What is RegisterTexas.com? You mentioned it's

1 a voter registration application, but can you tell me a
2 little bit more about it?

3 A. It's an online system where a person goes and
4 fills out their voter registration information, their
5 name, their address; and it will then -- when they
6 submit it, we will mail them a pre-populated voter
7 registration application with the information they have
8 given us. When they get it, they sign it, put it in a
9 postage-paid envelope and drop it in the mail. It's
10 already addressed to their voter registrar.

11 It's a shortcut for those people who
12 don't either own a printer, an envelope, or a stamp
13 because the biggest impediment for people to registering
14 on their own without a postage-paid envelope is the
15 inability to have a postage stamp. People just don't
16 regularly have those in this day and age or have an
17 envelope, even, in this day and age, especially younger
18 voters. So this is a way to: Give us your information.
19 We will send you the application filled out. You just
20 have to add in the personal information, like your
21 driver's license number that we don't have, those kinds
22 of things, IDing things, sign it, date it, put in the
23 postage-paid envelope.

24 Q. About how long does that process take? Like,
25 if I went on RegisterTexas.com and filled it out, how

1 long, approximately, would it be until I got my
2 application in the mail to sign and then forward along
3 in the postage-paid envelope?

4 A. We're mailing them out weekly. We will do
5 that all the way up until a week before the election.

6 Q. Okay.

7 A. And most of this we wouldn't have to do if
8 people could update their registration when people got
9 their driver's license updated.

10 MS. MACKIN: I'm going to object to the
11 last sentence as nonresponsive to a question that I've
12 asked.

13 Q (BY MS. MACKIN) Lower down on page TDP 141 --

14 MR. GEISE: Does it make sense to take a
15 break after we're done with this document?

16 MS. MACKIN: Sure, yes.

17 MR. GEISE: Okay.

18 MS. MACKIN: Good idea. And I've only
19 got ten minutes, maximum, left on it, maybe less.

20 MR. GEISE: Okay.

21 Q (BY MS. MACKIN) So it mentions that -- sorry.

22 MS. MACKIN: I'm used to doing this on
23 paper, and the computer is an adjustment. I know I'm
24 making this, like, inquisitive face into the camera.

25 MR. GEISE: It's a whole different

1 process. I got you.

2 Q. (BY MS. MACKIN) It's this first full
3 paragraph. It says, "Through the shifting demographics
4 in Texas, amplified by Texas Democrats' aggressive voter
5 registration initiative, we anticipate the voter rolls
6 will swell to upwards of 18 million registered voters in
7 2020." And without inquiring into any internal
8 proprietary information, can you tell me the source of
9 that projection?

10 A. I think it's -- if you read down this page,
11 there's references to TargetSmart, which is an analytics
12 firm --

13 Q. I see.

14 A. -- that does data around registration. You
15 know, they later say that 2.6 [sic] people registered
16 since 2016. And you can do analysis on how many people
17 were registered at the beginning of this election cycle,
18 how many people are registering per month with the
19 Secretary of State, how many potential people are moving
20 in the state, the growth of population, the number of
21 18-year-old -- people coming onto the rolls who are 18,
22 the number of people who are dying off the roles. You
23 do all that analysis, and you come up with an estimate
24 that we will move from the approximately 16 million that
25 were registered in 2018 to 18 million by 2020.

1 Q. All right.

2 A. The hard part of that will be the efforts of
3 the Democratic Party and the Republican Party to add new
4 people to the program, the kind of programs that we run
5 and they run. Plus, as I said before, the number of
6 people moving into the state or changing address being
7 registered through the DPS.

8 Q. All right. I'd like to move down to TDP 142,
9 just the next page.

10 A. Uh-huh.

11 Q. What does this show, Mr. Maxey?

12 A. It's an analysis of legislative districts and
13 those we -- let me make sure I'm doing this -- it's sort
14 of the Democratic voting strength by legislative
15 district and showing that there are 18 districts that
16 have -- potentially can flip to be Democratic districts
17 in the 2020 election if the registration trends and
18 voter turnout (inaudible.)

19 (Reporter requests repeat.)

20 THE WITNESS: Voter turnout trends are
21 what we hope they are.

22 Q. (BY MS. MACKIN) And just to be clear, this
23 refers to State House Districts?

24 A. Yes.

25 Q. Okay. And then scrolling down to the next

1 page, TDP 143, what does this page show?

2 A. The same kind of analysis, potential new
3 Democrats by Congressional Districts.

4 Q. All right. And then down to page 1 -- well,
5 actually -- page TDP 147, the second-to-last paragraph.

6 A. The one, "That's why we're coming together"?

7 Q. It begins, In January 2020."

8 A. Okay. I was on 148. All right.

9 Q. So it talks about a lawsuit challenging an
10 unconstitutional electronic signature ban spearheaded by
11 the Texas Secretary of State. Do you know what that is
12 a reference to?

13 A. Yes.

14 Q. And what is that a reference to?

15 A. The Secretary of State has made a ruling that
16 a person who signs a voter registration application and
17 then scans it and mails it -- e-mails it in has to be
18 rejected (inaudible.)

19 (Reporter requests repeat.)

20 THE WITNESS: Because it's not wet ink.

21 Q. (BY MS. MACKIN) And what ruling is that? You
22 referenced a ruling by the Secretary of State.

23 MR. GEISE: And I'm just going to object
24 because it calls for a legal conclusion, but you can
25 answer.

1 A. In 2018 an organization called Vote.org
2 suggested to Texas voters that they could fill out an
3 application, take a picture of their signature, place
4 that picture on the application, attach it to the
5 application, and e-mail it in, which complied with all
6 state law, as I understood it at this time, that it was
7 an application with a signature on it. And the
8 Secretary of State issued a ruling at that point in time
9 or told Vote.org or election administrators not to
10 accept those apps -- voter registrars not to accept
11 applications because there was not wet ink on the paper.

12 Q. Okay.

13 MS. MACKIN: All right. That's all I
14 have on this document. So if we want to break for
15 lunch, how long do folks need? I can be flexible. I
16 think maybe somewhere between one and two hours left for
17 me today on this depo.

18 MR. GEISE: Okay. Glen, how long do you
19 want for lunch? I mean, I can be pretty -- an hour,
20 half an hour, 45? It's up to you.

21 THE WITNESS: I can eat a sandwich in 20.

22 MR. GEISE: So let's do -- half an hour's
23 fine by me if it's fine by everyone else.

24 MS. BRANCH: Yep, half an hour sounds
25 good. Is that okay with you, Anna?

1 MS. MACKIN: Can I add, like, five
2 minutes and we come back at 1:00, just so we make it a
3 round number?

4 MR. GEISE: Yeah, that's perfect.

5 MS. MACKIN: I'm ordering my Uber Eats
6 right now.

7 MR. GEISE: Well, if you need more
8 time -- I mean, if you need more time, that's totally --
9 we can do 45 or whatever you want to do. 1:15?

10 MS. MACKIN: How about we plan on 1:15
11 just to be safe?

12 MR. GEISE: Yeah, that works.

13 MS. MACKIN: Appreciate it.

14 MR. GEISE: Yeah.

15 THE REPORTER: We're going off the record
16 at 12:25 p.m.

17 (Off the record from 12:25 to 1:18 p.m.)

18 THE REPORTER: Going back on the record
19 at 1:18 p.m.

20 MS. MACKIN: All right. I'm going to
21 share a document with everyone in the chat box, marked
22 TDP 92.

23 Q (BY MS. MACKIN) Mr. Maxey, please let me know
24 when you've had a chance to pull up that document and
25 take a look at it.

1 A. All right.

2 Q. Do you recognize this document?

3 A. It's an e-mail sent by Manny Garcia to the TDP
4 e-mail list.

5 Q. On December 31st, 2019, correct?

6 A. Correct.

7 Q. All right. And down about halfway through the
8 e-mail, underneath Protecting & Expanding the Vote, the
9 last sentence says, "We aren't done yet, but we have big
10 voting rights news to announce soon." Did I read that
11 correctly?

12 A. You did.

13 Q. Okay. Has that big voting rights news been
14 announced yet?

15 A. Yes.

16 Q. And what was that voting rights news?

17 A. That news was that FairFight.org would be
18 giving the Texas Democratic Party a major grant to hire
19 voter protection staffers.

20 Q. And what are those voter protection staffers
21 that are funded by the FairFight.org grant working on?

22 A. All of the voter protection things that we've
23 already put in the record that we do.

24 Q. And so those would be the hotline?

25 A. Hotline, poll watchers, working with the

1 county clerks and election administrator on election
2 procedures. That department is working with election
3 administrators and folks all over the state right now in
4 how to handle the Democratic primary election that I
5 run, but they are working on the logistics to make
6 polling places vote-by-mail accessible during the
7 COVID-19 crisis, those kinds of activities.

8 Q. All right. Thank you. That's all I have on
9 that document.

10 MS. MACKIN: I'm now going to share a
11 link in the chat box to a document marked TDP 129.

12 Q. (BY MS. MACKIN) Please let me know when
13 you've had a chance to pull that up and are ready to
14 discuss it.

15 A. Okay.

16 Q. And this is an e-mail dated September --

17 MR. GEISE: It took me a second to do it,
18 too.

19 MS. MACKIN: Counting on my fingers.

20 Q. -- September 24th, 2019 from Kassandra Aleman
21 sent out to the TDP Listserv; is that right?

22 A. Correct.

23 Q. Okay. Down under that signature block, it
24 says in bold text, "Don't forget to register to vote or
25 share this e-mail with friends and family to help them

1 register. Click here to update your registration today.
2 It only takes two minutes." Do you know what that
3 "click here" language linked to?

4 A. I'm going to surmise because I can't click the
5 link to figure that out, but I imagine it goes to our
6 website that links to Register2Vote.org, which is the
7 same kind of system as our RegisterTexas.org -- or dot
8 com that we just talked about where people can fill out
9 an application, print it out, and mail it in.

10 MR. GEISE: And, Counsel, we can check.
11 I don't know if it's still live or if I could look and
12 see if there's a way to get back to you on what that
13 was, after.

14 MS. MACKIN: Okay. We'd appreciate that.
15 Thank you.

16 A. The only thing that we would have had live in
17 September of 2019 is the Register2Vote.org site that's
18 branded to the TDP through an agreement. And that's
19 where they fill in their information, Register2Vote.org
20 mails them an application, which they sign and put in
21 their personal ID information, put it in a postage-paid
22 envelope and send to the clerk to register.

23 Q. (BY MS. MACKIN) And how is Register2Vote.org
24 different from the other site that we were discussing
25 before lunch? I'm blanking on the URL. I think it was

1 RegisterMe.com or something like that.

2 A. Register, the number 2, vote dot org.

3 Q. Okay.

4 A. It's an organization that does voter
5 registration kind of work. We have a contractual
6 agreement as a vendor with them. So they have a site
7 where people can do this, register. Anybody can
8 register to vote, Democrats or Republicans. And we've
9 contracted to have a version of that branded through the
10 Texas Democratic Party through a contractual agreement.

11 Q. And what is the purpose of having both of
12 these systems?

13 A. The first one was one we just branded and we
14 wanted to make it something that looked more specific to
15 the Texas Democratic Party and also that we would be
16 able to see the data of who registered through the data
17 agreement and contractual stuff. So it's a new
18 iteration of the old system that's probably
19 discontinued.

20 Q. Okay. And are both systems still in operation
21 today, or is it just Register2Vote.org?

22 A. Both are in operation today.

23 Q. And the Texas Democratic --

24 A. We're pointing people to the new system. In
25 the past it was going there, and we didn't know who was

1 registering because it was a tool of Register2Vote.org
2 that we were just pushing people to. Now, they're going
3 through our system; and we have a data-sharing agreement
4 by contract to know who has filled in the applications.

5 Q. And what information does the Texas Democratic
6 Party receive about who has filled in those
7 applications?

8 MR. GEISE: I'm just going to -- on the
9 First Amendment -- I mean -- yeah, I guess -- I think
10 you can answer broadly.

11 I'll withdraw the objection. That's
12 fine.

13 A. It's the information that's legally available
14 if I were to go to the Secretary of State and ask for a
15 list of voter registrars, the information they could
16 give us, their name, their address, their date of birth.
17 That's about it on the voter registration.

18 Q. (BY MS. MACKIN) That's it, first and last
19 name, address, and date of birth?

20 A. Yeah. I mean, the Secretary of State does not
21 give us, you know, the driver's license, the last four
22 of Social. Any of that personal ID is prohibited by law
23 to be shared, so we never collect it. We are very
24 careful not to ever collect things that would be
25 prohibited if we asked the Secretary of State to give

1 stuff off of the system.

2 Q. And so just so I'm clear, under the data-
3 sharing agreement with Register2Vote.org, y'all collect
4 first and last name, address, and date of birth on the
5 individuals and no other information?

6 A. No. We get their phone number and e-mail, but
7 that is done prior to the person asking to fill out the
8 form. We ask, "What's your e-mail? What's your phone
9 number?" And then we -- the question is, "Would you
10 like to register to vote?" So if it had been asked in
11 a different manner, the e-mail and phone number -- or
12 the phone number because the e-mails are not on the
13 registration applications -- I guess phone numbers
14 aren't, either -- they may be; I can't remember. But if
15 we were getting them after they registered and signed
16 it, then that would be illegal; but we ask up front
17 before they fill it out.

18 Q. That's all I have on that document. Thank
19 you, Mr. Maxey.

20 MS. MACKIN: I am going to share with
21 everyone a file marked TDP 157.

22 Q. (BY MS. MACKIN) And, if you could, please let
23 me know when you have been able to pull up that document
24 and are ready to discuss it.

25 A. Okay. All right.

1 Q. Do you recognize this document?

2 MR. GEISE: I'm sorry, Counsel. This was
3 meant to -- sorry. I realize that this document -- we
4 can produce a better version of this, but we can talk
5 about that later.

6 MS. MACKIN: Thank you. I wasn't --

7 A. I recognize it. It's a screenshot of
8 something that pops up when you go to the page on our
9 website about Democratic leaders. It's what's called a
10 pop-up. Its asks people to give some money.

11 Q (BY MS. MACKIN) And do the identities of the
12 Democratic leaders appear on this copy?

13 A. No, because it's a screenshot. These are all
14 links to our website.

15 Q. Okay.

16 MR. GEISE: And I think for maybe three
17 of them -- we can talk after. I think for three of
18 these we are providing in response to requests things
19 that were meant to be screenshots of the website; and
20 maybe if we provide the address, you guys would know
21 that address and go to it and that will -- rather than
22 trying to figure out a technical way to produce it so it
23 shows, we can just give that to you. But I have a list
24 of those, and we can figure that out after.

25 MS. MACKIN: Okay. Thank you. I

1 appreciate that.

2 All right. I'm sharing with everyone a
3 file titled TDP 164.

4 Q (BY MS. MACKIN) And, Mr. Maxey, please let me
5 know when you have that up on the screen and are ready
6 to discuss it.

7 A. A very slow download.

8 Q. It's a lengthier one of the files.

9 A. I got it.

10 Q. All right. Do you recognize this document,
11 Mr. Maxey?

12 A. A screenshot of our website on the section
13 dealing with our platform. It has the platform spelled
14 out.

15 Q. Okay. Is this the current version of the
16 Texas Democratic Party platform?

17 A. The version -- the platform adopted at the
18 2018 Democratic State Convention. We'll adopt a new one
19 in June of this year in our virtual state convention.

20 Q. You will adopt a new one in June of this year,
21 you said?

22 A. Every (inaudible.)

23 (Reporter requests repeat.)

24 THE WITNESS: Every two years at our
25 biennial state convention, we update our platform.

1 Q. (BY MS. MACKIN) And so is TDP 164 an accurate
2 reflection of the current Texas Democratic Party
3 platform?

4 A. (Inaudible.)

5 Q. I'm sorry. Did you -- you broke up a little
6 bit.

7 MR. GEISE: I think he said "verbatim."

8 THE WITNESS: Verbatim.

9 MS. MACKIN: Thank you.

10 Q. (BY MS. MACKIN) And so it would be a fair and
11 accurate representation of TDP's positions on issues?

12 A. Our values and positions on legislative and
13 policy issues, yes.

14 Q. Okay. Thank you for that. That's all I have
15 on that document.

16 MS. MACKIN: I am sharing with everyone
17 TDP 256.

18 Q. (BY MS. MACKIN) And please let me know when
19 you have that pulled up and are ready to discuss it.

20 A. I've got it.

21 Q. Do you recognize this document?

22 A. It's an e-mail from Cliff Walker, our Deputy
23 Section Director, to our e-mail list.

24 Q. And how would you describe this e-mail? What
25 type of activity by the Texas Democratic Party would you

1 say that this falls under?

2 A. Organizing. This is going out from -- to our
3 list about our organizing efforts in the -- when
4 COVID-19 hit, our organizers who were doing door-to-door
5 stuff were sort of sidelined and we've gone into more of
6 an e-mail online organizing, asking people to go into
7 what we call Connect Texas, where there are local people
8 who are working in their communities -- volunteering to
9 work in their communities around educating people about
10 public health, who are doing wellness checks of senior
11 citizens who are Democratic voters and talking to them,
12 all in the mode of checking on them, getting them
13 COVID-19 information, where appropriate, and asking if
14 they're registered to vote or they need a vote-by-mail
15 application, and other kinds of things that we can do in
16 the age of COVID-19, Connect Texas.

17 Q. Thank you for that. I think that's all I have
18 on documents.

19 I want to follow up on a couple of more
20 points. Is TDP a membership organization?

21 A. Yes.

22 MR. GEISE: I'm just going to object to
23 legal conclusion. You can answer.

24 Q. (BY MS. MACKIN) And who are TDP's members?

25 MR. GEISE: Same objection. You can

1 answer.

2 THE WITNESS: And so you say objection; I
3 can't answer?

4 MR. GEISE: No, I said you can answer. I
5 said same objection to a legal conclusion, but you can
6 answer.

7 A. The Texas Election Code states that members of
8 a political party are the voters who cast a ballot in
9 their primary election or sign an Affidavit of
10 Affiliation with a Party -- it's spelled out in the
11 Election Code -- with a Party officer. And so our
12 members, in a legal sense, are approximately 2,084,000
13 Texans who voted in the March 3rd Democratic primary.

14 Q. (BY MS. MACKIN) Does TDP maintain a list of
15 those members?

16 A. They are in our voter file as having cast a
17 ballot. They are -- we don't deal with them as a
18 membership list on a regular basis. They are legally
19 members.

20 MR. GEISE: And I think the question
21 asked whether or not there's a membership list. I think
22 any further inquiry into membership is core First
23 Amendment protected under a number of the cases.
24 (Inaudible.)

25 THE WITNESS: Can I just say that there's

1 feedback when Mr. Geise is speaking? Are y'all hearing
2 it?

3 MS. MACKIN: I was hearing it.

4 THE REPORTER: I'm sorry, Mr. Geise. I
5 can't hear you now.

6 MR. GEISE: Can you hear me?

7 THE REPORTER: It's still very staticky.

8 MS. BRANCH: Can you try it -- we can't
9 hear you. Can you try it without the headphones? Will
10 that help?

11 For what it's worth, I think there was an
12 objection to form, legal conclusion, and --

13 MR. GEISE: I think I fixed it now.

14 THE WITNESS: Yeah.

15 MR. GEISE: You can hear me?

16 THE WITNESS: Yes.

17 MR. GEISE: (Inaudible.) You can't hear
18 me?

19 THE REPORTER: It's still very staticky
20 on my end.

21 MR. GEISE: Does this work better?

22 MS. MACKIN: I'm getting a lot of static,
23 still, as well.

24 MR. GEISE: Okay. Well, I can try to
25 change it to --

1 MS. MACKIN: Well, wait. That just got a
2 little better.

3 MR. GEISE: Yeah. Okay.

4 THE VIDEOGRAPHER: It's still there in
5 the background.

6 MR. GEISE: I mean, I can try to use my
7 laptop microphone and see if that would improve it. Let
8 me try switching to that.

9 Is this better?

10 THE WITNESS: Yes.

11 MR. GEISE: Okay. Well, I will listen in
12 on the headset unless, you know, it kind of breaks up;
13 and I will talk through my PC microphone. So hopefully
14 you don't hear my cat in the background too much.

15 MS. MACKIN: That's much better. You
16 just -- if you could -- I can still hear you, but it's a
17 lot quieter. So if you want to make a forceful
18 objection, you might speak up a little bit more.

19 MR. GEISE: All right. I'll try to --
20 okay. Well, I will awkwardly be close to the
21 microphone.

22 MS. MACKIN: There is nothing about this
23 process that is not awkward, so.

24 MR. GEISE: So, anyways, I'm sorry.
25 Sorry for that interruption.

1 Q (BY MS. MACKIN) All right. Mr. Maxey, can
2 the Texas Democratic Party apportion a specific cost to
3 each new voter that it registers?

4 A. I think that's an impossibility because it's
5 wrapped up in multiple levels of employee salaries,
6 whether that message went through the technology, the
7 data targeting, who we talked to, the communication
8 method that happened -- it could have been through a
9 text message. It could have been through a piece of
10 mail. It could have been through -- you know, so
11 pulling all that apart is just an impossibility. I
12 mean, to allocate some of my salary, just as Luke
13 Warford, as the voter expansion, the data team's salary,
14 the communications salary, the end cost to mail
15 something, the postage cost if we mailed it. You know,
16 I guess you could go through and figure out the cost of
17 a particular mailing, but not the overall cost by voter.

18 Q. When the Texas Democratic Party reaches out to
19 someone to attempt to register them to vote, do you
20 check whether that individual has engaged in an online
21 transaction with DPS?

22 A. No, we would not know that.

23 Q. Does the Texas Democratic Party believe that
24 any increase in voter registrations will benefit
25 Democrats?

1 A. I think that's pretty much a given that the
2 more people that vote, the more likelihood -- I mean,
3 this is my opinion now, if that's what you're asking.
4 If you look at the demographics of the people that we
5 believe are unregistered in Texas, they are
6 overwhelmingly African-American, Hispanic, and Asian.
7 They are overwhelmingly under the age of 35, and they
8 are overwhelmingly in Democratic areas of Texas -- or
9 communities that vote overwhelmingly for Democrats. So,
10 yes, we believe that gross amount of registration inures
11 to our benefit a lot.

12 Q. Okay. I'd just like to go through -- turning
13 back to Exhibit 1, the Notice of the Deposition -- I
14 think if we scroll up to the chat box, it's still
15 available there.

16 A. Sorry. I'm readjusting my water cup.

17 Q. No problem.

18 And once you are there, please join me on
19 page 7.

20 A. Of what?

21 Q. Of the Deposition Notice.

22 A. Are you sharing it with me?

23 Q. Oh, it's -- I can share it again; but if you
24 go to the group chat and go all the way to the top, it
25 will be the first document that we're sharing.

1 A. You're right. Okay.

2 Q. All right. On page 7 this is a list of the
3 categories of documents that Defendants have requested
4 TDP to produce, and I'm just going to go through each
5 one with you. Category 1 says, "Documents sufficient to
6 substantiate the factual allegations in Paragraphs 11
7 and 29 through 35 of your Complaint." I'd be happy to
8 pull up the Complaint if that's helpful, but my question
9 is whether you've produced documents responsive to this
10 category.

11 MR. GEISE: And I'm just going to object.
12 And you can answer any of this other than if -- I mean,
13 you can answer to the extent any of this doesn't
14 implicate conversations or documents that you produced
15 that -- I mean, to the extent it doesn't implicate
16 conversations with counsel, you can answer this; but if
17 your only answer is that you produced documents in
18 consultation with counsel, I think that's the extent of
19 that inquiry.

20 MS. MACKIN: We are entitled to inquire
21 into compliance with the subpoena.

22 MR. GEISE: Well, but you can ask -- I
23 mean, yes; and you can ask him if they produced
24 documents, I mean.

25 MS. MACKIN: And that's what I'm asking.

1 MR. GEISE: All right.

2 A. Well, I believe that we have produced
3 documents sufficient to substantiate the allegations.

4 Q. (BY MS. MACKIN) Okay.

5 MR. GEISE: And I'm also going to then
6 object that that calls for a legal conclusion, but you
7 can continue. Sorry. I just wanted to get that on
8 record.

9 Q. (BY MS. MACKIN) Are there any other documents
10 that I would need to look at to substantiate the factual
11 allegations that TDP is making in this lawsuit?

12 A. Not that I'm --

13 MR. GEISE: Objection, calls for a legal
14 conclusion.

15 But you can answer.

16 Q. (BY MS. MACKIN) All right. Moving on to
17 Category 2, "All communications between you, TDP, and
18 any person to assist them in registering to vote or
19 updating their voter registration information after a
20 driver's license renewal or change of address
21 transaction on the DPS website." Did you produce
22 documents responsive to this category?

23 A. I'm unaware of any documents that we have in
24 our possession or have ever even created that is a
25 conversation between TDP staffers and voters after

1 they've completed this transaction as far as a document.
2 I mean, most -- everything we know about this process is
3 anecdotal or people reporting us -- to us through oral
4 conversations on our hotline or clerks telling us of
5 these problems of people getting registered after going
6 to the DPS. We get many, many reports from county
7 clerks and election officials of people who believe they
8 have registered with DPS or when they changed their
9 address, but it didn't happen. And we've relied on
10 reports from some studies from Battleground Texas about
11 that process. But us reaching out and finding a voter
12 one by one as they've used DPS -- because we have no
13 knowledge personally of that unless that voter calls us
14 and tells us that they used DPS and didn't get
15 registered to vote.

16 Q. So is it your understanding that TDP doesn't
17 have anything responsive to this category?

18 A. Nothing that's e-mail or writing. Almost all
19 of this conversation -- is conversations between voters
20 and our hotline people or voter protection people or us
21 talking about the problem of it, not with the voter but
22 with the clerks or election administrators.

23 Q. And would there be any documentation of those
24 conversations that you mentioned?

25 A. Not that I'm aware of.

1 Q. All right. Moving on to Category 3,
2 "Documents sufficient to show all information described
3 and/or requested in Deposition Topic Numbers 2, 3, 4, 5,
4 and 7, as described in Attachment A." Please join me on
5 the previous page if it's helpful. Did you produce
6 documents responsive to this category with respect to
7 30(b)(6) Topic 2?

8 MR. GEISE: And -- well, I guess,
9 Mr. Maxey, you can answer that to the extent you're
10 aware and whether or not you're aware of whether or
11 not Counsel has provided the State with publicly
12 available -- with the locations of publicly available
13 information other than the documents produced.

14 A. I'm sorry. Are we talking about Number 2,
15 "Your organization, including your organizational
16 structure, employees, physical assets..."?

17 Q. (BY MS. MACKIN) Yes, sir. I am asking
18 whether you produced documents sufficient to show TDP's
19 "organization, including organizational structure,
20 employees, physical assets, parent and sibling entities,
21 tax status, and history, the services that you provide,
22 and the activities you perform."

23 MR. GEISE: And I will instruct the
24 witness that you can answer to the extent of your
25 knowledge of whether or not non-privileged, non-First

1 Amendment privileged documents were produced in response
2 to that request.

3 A. I believe they have been. I don't know if
4 there were any questions or documents about our tax
5 status. So I can answer that if you want to know our
6 tax status, but I don't know if there's a document
7 anywhere in this about that.

8 Q. What is your tax status? Sure, go ahead and
9 provide that.

10 A. Political parties are an IRS 527, created by
11 the IRS Code; and we are legally established through the
12 Texas Legislature.

13 Q. All right. Moving on to 30(b)(6) Topic 4,
14 have you produced documents sufficient to show the
15 activities on which TDP has spent funds or to which it
16 has dedicated resources in Texas between January 1st,
17 2014 and the present?

18 MR. GEISE: I'm going to just, again,
19 object. It calls for a legal conclusion.

20 And you can answer to the extent that you
21 believe that non-privileged documents have been produced
22 or indicated to Defendants where they are publicly
23 available.

24 A. Well, I think all our non-privileged documents
25 have been produced; and all this information is publicly

1 available on the Texas Ethics Commission and the Federal
2 Election Commission websites.

3 Q. Okay. Did you -- moving on to Deposition
4 Topic Number 5, did you produce documents sufficient to
5 show the activities on which TDP plans to spend funds or
6 to which it plans to dedicate resources between the
7 present and January 1st, 2024?

8 MR. GEISE: And, again, I would instruct
9 the witness that you can answer to the extent you are
10 aware of non-privileged, non-public documents regarding
11 Request Number 5.

12 A. I mean, this whole Number 5, everything would
13 be privileged under our First Amendment. And I will
14 tell you that we will spend all the money we raise.

15 Q. But you have not produced documents responsive
16 to -- you have not produced documents sufficient to show
17 the information in Topic 5 on advice of Counsel?

18 A. I am saying exactly that. There is nothing on
19 this list that's not protected under our First Amendment
20 organizing rights.

21 Q. Okay. And then have you produced -- jumping
22 down to Topic 7, have produced documents sufficient to
23 show your members who are eligible to use the DPS
24 website for a driver's license renewal or change of
25 address transaction and intends to do so?

1 MR. GEISE: I'm just going to object,
2 asked and answered, to the earlier conversation about
3 whether or not such documents exist. So to the extent
4 you're aware of whether or not such documents exist, you
5 can answer.

6 A. We have no such document to produce. It's
7 just common knowledge that every Texan who's over the
8 age of 16 who might want to get a driver's license or
9 change their address may use the DPS system. So it is
10 pretty much all of our members and those that have some
11 kind of disability that they cannot drive a car, such as
12 a blind person.

13 Q. But you haven't identified any specific
14 individual member, have you?

15 A. Well, there are named Plaintiffs in this
16 lawsuit. I think that almost all of our members are
17 similarly situated that at some point every six years
18 they will have to go to a DPS office and renew their
19 driver's license unless they use the online system to
20 change their address in between those six-year periods,
21 which doesn't get them registered to vote. So, no, we
22 don't have a list because it's everybody.

23 Q. All right. Back to the categories of
24 documents, Number 4 requests "Documents sufficient to
25 show your organizational structure and employee -- and

1 internal employee hierarchy, including an organizational
2 chart and job description of all employees." Have you
3 produced documents responsive to this category?

4 MR. GEISE: The same instruction. You
5 can answer to the extent you're aware of non-privileged
6 responsive documents or to the extent that you don't
7 believe you've testified to this matter.

8 MS. MACKIN: I don't think it's a valid
9 objection.

10 MR. GEISE: All right. You can answer to
11 the extent you are aware of non-privileged responsive
12 documents.

13 A. I'm aware of not -- I'm not aware of any
14 non-privileged responsive documents to that question.
15 It's all internal to our First Amendment rights.

16 Q. (BY MS. MACKIN) And so just to make it
17 perfectly clear --

18 A. Who our employees are and what we pay them is
19 on the TEC or FEC websites.

20 Q. And this does not request what your employees
21 are paid. It requests organizational structure,
22 including an organizational chart and job descriptions.
23 And as I understand your counsel, is it TDP's position
24 that that information is protected under the First
25 Amendment?

1 MR. GEISE: Yes. Although, I believe
2 that Mr. Maxey has testified to the public nature of
3 that information. If you're aware that any -- and that
4 we provided the publicly available organizational chart,
5 which I understand did not come through correctly; and
6 we will supplement the production in that manner with
7 that website. But I believe that anything other than
8 that is privileged.

9 A. All of our staff and their job titles, at
10 least, is posted on our website; and the links were in
11 the document that we produced.

12 Q. All right. And then the final category, "To
13 the extent not already produced in response to Items 1
14 through 4 above, all documents reviewed in preparation
15 for your deposition." Have you produced documents
16 responsive to this category?

17 MR. GEISE: I'm just going to object. I
18 mean, you are able to answer that question "yes" or
19 "no." But I believe that any specific documents you
20 reviewed are subject to the attorney-client privilege.
21 You can answer "yes" or "no" whether all documents you
22 reviewed in preparation for this deposition have either
23 been produced or Counsel has been -- or, to your
24 knowledge, whether or not Counsel has been directed to
25 the appropriate publicly available websites.

1 A. So my answer is: Every document I reviewed in
2 response to this has been produced or I have told you
3 where to find it on a publicly available website.

4 Q. Okay.

5 MS. MACKIN: We'll request
6 supplementation, as was discussed with my colleague,
7 Chris, earlier and was discussed today; and we will hold
8 this deposition open to ask any questions about
9 documents that have been supplemented. But subject to
10 that, we pass the witness.

11 MR. GEISE: All right. And we'll --
12 well, I just have a couple of questions, Mr. Maxey.

13 EXAMINATION

14 BY MR. GEISE:

15 Q. Now, Mr. Maxey, without reviewing or
16 discussing any specific documents you reviewed in
17 preparation for this deposition, did you review or come
18 to understand the total expenditures spent by the Texas
19 Democratic Party for every year from 2014 through 2019?

20 A. Yes, I looked at the documents or the FEC and
21 TEC to get a general understanding of about how much we
22 spent each calendar year during that period.

23 Q. And now, Counsel asked you about -- and the
24 Deposition Notice provides specific certain breakdowns
25 of those funds, including voter persuasion, Get Out the

1 Vote, voter registration, funds spent on supporting
2 Democratic candidates through fundraising, funds spent
3 on supporting Democratic candidates through organizing.
4 And I believe your testimony -- and correct me if I'm
5 wrong -- was that such numbers are unknowable. And
6 could you briefly explain why that is?

7 A. As I stated early on, every employee that
8 comes to the TDP is asked to become a deputy voter
9 registrar. Every employee has -- every department has
10 some level of educating voters or candidates or
11 activists on how to register somebody or how to get
12 registered for the target registration. And so every
13 staffer we have at some point during their time with us
14 does voter registration. I can recall when our
15 comptroller sat at a table registering people to vote at
16 a music festival. So we are all doing that.

17 The cost of all our technology, our data
18 systems, is done for targeting and voter registration
19 and vote by mail and Get Out the Vote; and so you can't
20 just pull out which -- how much of that -- those
21 computers, those data files, those employees are doing
22 voter registration.

23 The same thing with communication.
24 You're talking about all kinds of topics. On a regular
25 basis they talk about voter registration. Pulling out

1 the cost of their technology, their subscriptions, their
2 access to Twitter or Instagram, Facebook, other digital
3 platforms, and e-mail communications, you can't pull out
4 an exact cost of those programs that was used just for
5 voter registration. It would be impossible to do
6 because it's all in the same -- sort of the same pot.

7 Everybody's doing voter registration
8 activities. You know, the closest I could ever get is
9 if somebody wanted to see the cost of a specific
10 mailing; and that is publicly available on the FEC or
11 TEC because it would have been a bill paid to a vendor.

12 You know, it's the cost of -- I process
13 about -- right now about, through volunteers, about 300
14 vote-by-mail applications and dozens of voter
15 registration applications each week. They go through a
16 postage meter, and we do not determine which postage
17 stamp went on a voter registration application being
18 mailed out versus a vote by mail versus a Get Out the
19 Vote or a thank you note for fundraising. It's all in
20 the same pot. So you can't ferret out these costs.

21 The same thing with copy machines, making
22 copies of voter registration applications to mail to
23 somebody who asks for one.

24 You know, hand addressing an envelope.
25 The cost of envelopes, we buy them by the case. We

1 don't say, "Oh, these five were voter registration."

2 So you cannot ferret it out and cannot
3 give a specific answer.

4 MR. GEISE: Thank you.

5 No further questions for me.

6 MS. MACKIN: And I just have one follow-
7 up.

8 FURTHER EXAMINATION

9 BY MS. MACKIN:

10 Q. Mr. Maxey, you just talked about how you did
11 review documents to ascertain the Texas Democratic
12 Party's total expenditures for the years 2014 through
13 2020; is that right?

14 A. I did.

15 Q. But that those aren't able to be broken down
16 into discreet activities, correct?

17 A. I looked at the FEC totals and the TEC totals
18 because that was on that list.

19 Q. On which list?

20 A. On your list of Depo Notice things that you're
21 going to ask about, total expenditures. So I looked at
22 FEC and TEC and I jotted those down on a piece of paper,
23 that I'm not reviewing now, because I didn't memorize
24 them totally. But I did not then scroll through the
25 tens of thousands of entries to see if I could find

1 anything that said "voter registration" because I would
2 have been doing that for the past week.

3 So does that answer the question? I've
4 sort of forgotten it.

5 Q. I just wanted to make sure that if I looked at
6 the publicly available filings --

7 A. You're going to see them.

8 Q. Okay. Thank you.

9 And then, yeah, subject to additional
10 document production and the witness being unprepared or
11 improperly instructed to answer, we're holding the
12 deposition open.

13 But I pass the witness at this time.

14 MR. GEISE: We have no further questions.

15 THE REPORTER: Going off the record at

16 2:04 p.m.

17 (Deposition recessed at 2:04 p.m.)

18 (Signature was not request on the
19 record.)

20 --ooOoo--

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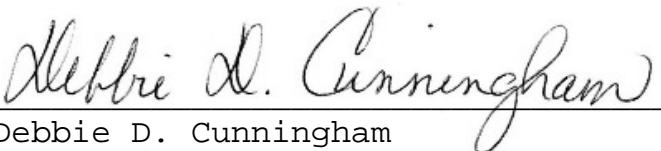
1 STATE OF TEXAS)

2
3 REPORTER'S CERTIFICATION

4
5 I, DEBBIE D. CUNNINGHAM, CSR, hereby
6 certify that the witness was duly sworn and that this
7 transcript is a true record of the testimony given by
8 the witness.

9 I further certify that I am neither
10 counsel for, related to, nor employed by any of the
11 parties or attorneys in the action in which this
12 proceeding was taken. Further, I am not a relative or
13 employee of any attorney of record in this cause, nor am
14 I financially or otherwise interested in the outcome of
15 the action.

16 Subscribed and sworn to by me this day,
17 May 3, 2020.

18
19
20 

21 Debbie D. Cunningham
22 Certified Shorthand Reporter
23 CSR No. 2065 - Expires 6/30/21
24 INTEGRITY LEGAL SUPPORT SOLUTIONS
25 P.O. Box 245
Manchaca, Texas 78652
www.integrity-texas.com
512-320-8690; FIRM # 528